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Friends of Sheldon Marsh  
Firelands Audubon Society  
Post Office Box 967  
Sandusky, Ohio 44870

December 15, 2002

Molly Holt, Attorney-Advisor NOAA  
Office of Asst. Gen. Council for Ocean Services  
1305 East-West Highway Room 6111  
Silver Springs, MD 20910

Dear Ms. Holt:

We are sending you samples from the public record taken from the Army Corps Hearing June 2001 and the Ohio EPA public Hearing, December 2001. Many of these people may be writing you again and some have asked us to resubmit their letters asking for your support of the Sheldon Marsh wetland complex containing the State Nature Preserve.

Please consider the variety of peoples from many places who are interested in saving our coastal heritage. We appreciate the opportunity to comment on this issue and are available to furnish any other information you may find helpful.

Sincerely yours,  
*Patricia S. Krebs*  
Pat Krebs and Pat Dwight  
Friends of Sheldon Marsh

**Friends of Sheldon Marsh  
Firelands Audubon Society  
P.O. Box 967  
Sandusky, OH 44870**

Ms. Laura A. Fay  
Section 401 Coordinator  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 43216-1049

**RECEIVED**

**SEP 10 2001**

**OEPA/DIVISION OF  
SURFACE WATER**

September 6, 2001

Dear Ms. Fay,

We are writing to ask you to deny Barnes' Nursery's Water Quality Certification 401 Application No. 2000-02170(1).

In considering the issue of Barnes Nursery and the Sheldon Marsh problem, we are **NOT** against the applicant's business, family, or need for water. We are against an illegal, non-permitted, oversized dike and channel in the Category III wetlands complex (most pristine, non degraded, natural, and best functioning) which includes Sheldon Marsh State Nature Preserve.

The applicant's paid consultant is only one voice. Enclosed are the comments from our own paid consultants, the experts from the State of Ohio and the national agencies who work for our interests. Also included are studied comments from other private professional people.

The Barnes' business is a \$14 million a year operation, and contributes greatly to the general complexion of the city of Huron and Erie County. However, we cannot permit this broad ranging influence to allow laws to be distorted and misconstrued for a single businessman's objectives over the public's larger interest.

The Barnes' project is not authorized. It is in violation of the original, now rescinded permit. It is oversized. It is in a valuable wetlands complex. It has exceeded the amount of dredge and fill allowed. It is impacting the aquatic habitat and ecosystem, special enough to be designated a State Nature Preserve. The project should never have been there to reconsider as an after-the-fact Individual Permit. Even with the proposed modifications to the original permit plan, the project is unnecessary and adds nothing to an already perfect category 3 environment.

All of the following referenced information is available at the Huron Public Library or from Freedom of Information requests. These are the reasons and arguments from which we have derived our objections and request for denial of this 401 application. The problems are these:

- ◆ Nationwide Permit 27 (NWP) was never intended for water supply, and the Army Corps of Engineers (ACE) was correct to rescind it in January 2001. See copy of the NWP regulations.
- ◆ The permit authorization letter and the permit do not “obviate”[excuse] the need for the applicant to get other local, State, and Federal authorizations. The applicant did not do this. Barnes needs authorizations from:
  - 1.) Ohio Coastal Management Program, coastal zone consistency requirement
  - 2.) Ohio Environmental Protection Agency, water quality certification [Clean Water Act]
  - 3.) Federal Environmental Protection Agency (USEPA), fill and spoil wetlands.
  - 4.) Federal Fish and Wildlife (USFWS) consultation, endangered species and habitat impacts.
  - 5.) Ohio Historical Society (OHS) archaeological preservation and review.
  - 6.) Erie County Planning Commission flood plain enforcement concurrence.

These and other authorizations were to be part of the original NWP27 permit. They were not initially obtained and are now being denied or questioned by the Agencies involved.

- ◆ The Attorney General of the State of Ohio sent a letter to Barnes notifying him of intent to sue over violations of these issues. See copy of Attorney General Betty Montgomery’s letter.
- ◆ If ACE officials had reviewed the original permit, it is likely the construction would never be in place to reconsider. See ACE original permit application.
- ◆ The problem of non-compliance with the original permit specifications has never been answered. Why is a 50 ft. channel in place instead of the 20 ft channel as authorized?
- ◆ Where is the documented proof that this project as it exists or proposed will not damage or has not already damaged this special aquatic habitat? The many agencies working for us disagree with the information the hired consultant, Ed Herdendorf, has been using to sell the Barnes’ project. We agree with these comments which are part of his publication, The Ecology of the Coastal Marshes of Western Lake Erie: A Community Profile, (1987). We feel they support our position concerning the Sheldon Marsh wetlands complex.

"In recent years there has been an increasing awareness of the resource value of our coastal wetlands and the urgent need to protect and conserve these ecosystems."p.1

"Because of fluctuating water levels of the Great Lakes, constant rejuvenation of wetland communities occurs."p.3

"The combination of recreational desirability, agricultural and residential potential and the proximity of coastal wetlands to larger bodies of water have contributed to their status of endangered environments. Their unique properties are susceptible to numerous natural and human-caused environmental disruptions that are now causing coastal wetlands to disappear at an alarming rate."p.4

- ◆ The restoration of hydrology and the new after-the-fact permit application is answered well by the two letters from L. Scot Duncan who has done extensive research on the issue.
- ◆ The nursery's operations have grown tremendously from their original rose growing business, and so have their water demands. Lake level fluctuations have not denied them water in the past. *Perhaps, the conclusion can be made that they have outgrown their present location, and should consider moving their container growing operations to their Catawba Island location where there appears to be unlimited water availability without impacting a state nature preserve.* The claims that Barnes Nursery will have to close its doors for lack of water appear to be unfounded. There is no indication that the applicant has considered all reasonable alternatives for water supply. Purchasing county water during low water periods or installing a pipeline through the uplands at their present location would also appear to be realistic alternatives.
- ◆ A nature preserve is precisely that, natural. It is rare, and was relatively undisturbed prior to the channel and dike construction. Any proposed "improvements" would only serve to degrade the pristine nature of this place. All necessary habitats and plant communities existed there naturally. We do not need to recreate "sand beaches", vegetate "barren mud flats", or "restore hydrology" to an already perfect place. We don't want to invite invasive species (such as herring gulls, phragmites, loostrife, carp, Canada geese, and mink).
- ◆ Of additional concern is the ongoing necessity for maintenance of the dike/channel/feeder channel in future years by means of dredging. Mr. Barnes' consultant was unable, when questioned, to reassure us that there would be no need for continued maintenance dredging in the future. This would seriously impact water quality during those times. Dredging would create turbidity and continue to recharge the waters of the marsh with lead shot (from the hunt club) and other environmental pollutants and chemicals, filtered out and now submerged in the wetland sediment.



- ◆ Eco-tourism is growing in our area. Sheldon Marsh is one of the most important natural areas in our state with significant economic impact. Preserving this pristine place would ensure the future use of Sheldon's as an economic asset to the community. An important public place accessible to all for research, recreation, leisure, birdwatching, and nature education, Sheldon's needs to be maintained in its natural state. Barnes' business is on private property and, as such, would not be accessible for these things.

We, the critics of this inappropriate channel and dike in a natural preserve area will not abandon our outcry. We ask you, the Ohio Environmental Protection Agency, to stand for the laws to be upheld in all cases. We ask you to fully study the issues presented, and to help the businesses follow the regulations in place while they are developing and expanding. We hope our outcry prevents this mis-use and abuse of wetlands' laws from happening in other parts of our county, state, and nation.

We are not a small group of local citizens. We are joined by and speak for a growing coalition of individuals, which includes voices from the following public interest groups and organizations: National Audubon Society, Ohio Audubon Society, Firelands Audubon Society, many other chapters of Audubon from all over Ohio, Friends of the Wetlands, Izaak Walton League, Great Lakes Aquatic Habitat Network and Fund, National Wildlife Federation, Ohio Coastal Resources Management Program, Sierra Club, Great Lakes Legal Institute, Lake Erie Wing Watch, Ohio Environmental Council, assorted college professors whose letters are on file, environmental biologists and educators, Cleveland Bird Calendar, Birdwatchers Digest, The Ohio Cardinal, Audubon Magazine, Cleveland Museum of Natural History Curator of Invertebrate Zoology, ecologists, environmental engineers, landscape architects, park district directors, NYS Fisheries and Wildlife experts, and many, many regular folks from Ohio and other states around the Midwest.

To quote a 1935 article in Field and Stream magazine, "And if you should find out, a few years from now, that you've got enough parks (development) to take care of the customers and that you'd like to have just one place like God made it, where would you go to get it? In other words, if you do what you call develop this patch of timber (wetlands), it's like killin' the last buffalo, ain't it? You won't get it back, should you find out, after all, you want it like it is now. That just can't be done!"

Friends of Sheldon Marsh, Co-chairs

*Patricia S. Krebs*

*Patricia A. Dwight*

Patricia S. Krebs ([pskherarts1@aol.com](mailto:pskherarts1@aol.com)) and Patricia A. Dwight ([pdwight551@aol.com](mailto:pdwight551@aol.com))  
408 Kiwanis Ave., Huron, OH 44839      3219 W. Cleveland Rd., Huron, OH 44839

May 31, 2001

US Army Corps of Engineers  
Attn: Michael G. Montone  
1776 Niagara Street  
Buffalo, New York 14207-3199

Dear Mr. Montone,

I would like to add my objection to the granting of an individual permit to Robert W. Barnes for restoring former hydrology to east Sandusky Bay and obtaining irrigation for Barnes Nursery. I do so based on my research on the status of the tiger beetle *Cicindela hirticollis*.

*Cicindela hirticollis* is a riparian tiger beetle that used to be common throughout the state of Ohio. During the past century it has declined, disappearing along the Ohio River and all of the inland counties where it had been collected in the first half of the last century.

During 1996 - 1998, my students and I surveyed all locations where *Cicindela hirticollis* had been collected in the past. Our findings, outlined in the attached publication, revealed that this beetle is now restricted to the Lake Erie region with the largest breeding population residing at Sheldon's Marsh. Indeed, our findings were reported to the Division of Wildlife and resulted in this beetle's status being changed from the special interest category to threatened status. As stated on the second page of our paper, "Fortunately, the largest population occurs in a state nature preserve and is therefore protected." That protection would be compromised if this permit were approved.

Our conclusions were that this beetle had declined in Ohio because of road construction, flood control, irrigation, and development. These actions are similar in nature to those that are being requested in the permit.

People might scoff at the notion that we should be concerned with a beetle. However, two tiger beetles are the focus of major repatriation efforts by the federal government. These efforts are costly and are being met with limited success. It would seem the most cost-effective and prudent action would be to protect populations already thriving rather than to go back and hope to restore a lost population. Moreover, tiger beetles have long been used as bioindicators of habitat destruction, because they are particularly sensitive to land use. Their numbers are also proportional to bird and butterfly species in a region and, indeed, are likely the first animals to decline in when land use is inappropriate.

It is critical that Sheldon Marsh be maintained in as pristine a condition as possible in order for us to protect this threatened beetle. The marsh needs to be put back to its original condition before the changes that have already been made become irreversible. Therefore, I urge you to find for a complete restoration of the Sheldon Marsh complex, a category III wetland, to its pre-NWP 27 construction condition. This should be accomplished without any modifications or conditions. Failure to do so could result in more costly efforts to protect this threatened species.

Thank you for the opportunity to place material in the record.

Sincerely yours,

Gene Kritsky, Ph.D.  
Professor and Chair of Health Sciences

## The Decline of *Cicindela hirticollis* Say in Ohio (Coleoptera: Cicindelidae)

GENE KRITSKY, NICOLA T. GALLAGHER, JESSEE SMITH, AND ANN WATKINS

*Department of Biology, College of Mount St. Joseph, Cincinnati, OH 45233*

**Abstract.** The current distribution of *Cicindela hirticollis* was determined by revisiting sites where *C. hirticollis* had been previously collected and by surveying likely sites along Lake Erie and the Ohio River. *C. hirticollis* was not found along the Ohio River or at any of the historical inland county localities. Along Lake Erie, *C. hirticollis* is restricted to beaches in Ottawa and Erie counties. Sand from beaches where *C. hirticollis* still occurs was compared to the beaches where *C. hirticollis* had been previously collected to help understand the causes of its decline. Habitat destruction caused by housing developments, changes to the shoreline, installation of irrigation ditches, and flood control has taken its toll on this sensitive beetle. For *C. hirticollis* to survive in Ohio, its remaining populations must be protected.

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### Introduction

*Cicindela hirticollis* Say (Figure 1) was once a common tiger beetle on the sandy beaches of our rivers and large lakes in the eastern United States. However, it has declined in recent decades and may be in need of protection. It was last seen in New Hampshire in 1958 and was last collected along the Ohio River in southwestern Ohio in 1911 (Graves and Brzoska, 1991; Kritsky *et al.*, 1996). It is a summer species and is easily identified by its slightly recurved humeral lunule. The purpose of this work was to determine its current status in Ohio.

### Materials and Methods

To determine the current status of *C. hirticollis* in Ohio, we surveyed the historical localities listed by Graves (1988) as well as locations that could be potential sites. Sites were visited each year during a three year period to make sure that failure to find the beetle was not due to annual variations. Surveys were conducted using aerial nets. To determine if there was a substrate preference for *C. hirticollis*, sand samples were taken and analyzed for sand, gravel, and clay/silt composition.

### Results

The survey results are shown on Figure 2. Open circles are sites where *C. hirticollis* had been collected in the past and the solid circles show where *C. hirticollis* is still present. Our survey found that *C. hirticollis* now occurs only along a 25 mile stretch of the Lake Erie shoreline. In Ottawa County, approximately 10 beetles were observed south of the public beach. In Erie County, approximately 25 beetles were observed on the private beaches east of Cedar Point and well over 100 beetles were observed at Sheldon Marsh State Nature Preserve. All observations were made during late June and early July.

The sand analysis is presented in Table 1. Composition is presented as percentage of the sample. Gravel is defined as particles larger than 2 mm, sand is defined as particles between 0.2 and 2 mm, and clay/silt is defined as particles less than 0.2 mm in size.

### Discussion

*Cicindela hirticollis* has suffered a significant decline in Ohio during this century. In the past it was found along the Ohio River, along most of the Lake Erie shore, and inland in Darke, Lucas, and Huron counties. The causes of this decline are likely related to habitat destruction, development, and water control. For example, *C. hirticollis* was last collected in Hamilton

County in southwestern Ohio in 1911. Since that time seven locks and dams were constructed along the Ohio River that destroyed the sandy beaches and replaced them with mud banks (Kritsky *et al.*, 1998). In Darke County, most of the creeks have been modified into irrigation ditches with steep walls covered with vegetation. Only a few pockets of sand are still found in that western county and they are small and littered with trash and tires. In Lucas and Huron counties, the sandy creeks were filled in for the construction of interstate highways.

Along the Lake Erie shoreline, development has greatly reduced the sandy beaches. Along eastern Lake Erie at Headland Dunes State Park and Nature Preserve and Geneva on the Lake State Park, break-walls have encouraged gravel deposition on the beaches, which changed the sandy beaches to a predominantly gravel shoreline.

Our analysis of the substrate composition showed that *C. hirticollis* has a very distinct sand preference. At all the sites where *C. hirticollis* is present the substrate analysis found high amounts of sand with little gravel and no silt. At sites where *C. hirticollis* has disappeared, the substrate analysis found gravel compositions ranging from 20 - 27%. This sandy preference was further verified by an analysis of the Indiana Dunes State Park beaches where *C. hirticollis* has been found for decades and is still present. Our substrate analysis revealed the same preference found in Ohio, a high sand percentage with little gravel and no silt or clay.

A large sand beach west of the Meldahl Lock and Dam on the Ohio River appeared to be a likely *C. hirticollis* habitat. However, three years of sampling has failed to find any *C. hirticollis*, although other tiger beetles, *C. repanda* Dejean and *C. cuprascens* LeConte, are common. The substrate analysis has revealed that this beach does not have the typical sand composition found at other *C. hirticollis* sites, but rather a higher gravel and clay/silt composition.

Graves and Brzoska (1991) argued that *C. hirticollis* should be protected in Ohio if we are to maintain this species in the state. Fortunately, the largest population occurs in a state nature preserve and therefore is protected. Even though *C. hirticollis* is sensitive to human alterations of the beaches, we found it on public beaches at East Harbor State Park and along the residential beaches at Cedar Point, a fact which suggests that it can tolerate some human interaction.

Actions can be taken to promote *C. hirticollis* populations at East Harbor State Park. In 1996, we found a significant population on the restricted beach north of the public beach. Unfortunately, the beach was lost to erosion and in 1997 was replaced with large rocks rather than with sand. We have found that introduced sand in large quantities is attractive to tiger beetles and that they will eventually colonize the area. If the restricted area north of East Harbor State Park's public beach was restored to its previous sandy conditions, it is likely that *C. hirticollis* would return to its former numbers. If that were to happen, it would be one of the few success stories in tiger beetle conservation.

### Conclusion

*Cicindela hirticollis* has suffered a significant decline in Ohio during this century and is now restricted to an approximately 25 mile stretch along Lake Erie. The causes of this decline are likely habitat alterations from road construction, flood control, irrigation, and development. The decline of *C. hirticollis* in Ohio is evidence that this beetle should be protected if we want to maintain this tiger beetle in the state. Its elevation by the Ohio Division of Wildlife from the special interest listing to threatened listing, and the presence of a large population in an already protected area promise that this tiger beetle will maintain a foothold in the state.

### Acknowledgments

We thank the College of Mount St. Joseph for the use of vehicles and the Ohio Department of Natural Resources, Division of Wildlife for permission to survey state parks and state nature preserves and for funding through the Do Something Wild Income Tax Check-off grant program. We also thank Dr. Brian J. Armitage and the Ohio Biological Survey for encouragement and support of the Insect Survey of the College of Mount St. Joseph.

Literature Cited

Graves, Robert C. 1988. Geographic distribution of the North American tiger beetle *Cicindela hirticollis* Say. *Cicindela* 20: 1-21.

Graves, Robert C. and David W. Brzoska. 1991. The Tiger Beetles of Ohio. Ohio Biological Survey Bulletin New Series 8 (4). Ohio Biological Survey. Columbus, Ohio. vi + 42 p.

Kritsky, Gene, L. Horner, Susan Reidel, and A.J. Savage. 1996. Status of some tiger beetles (Coleoptera: Cicindelidae, *Cicindela* spp.) in southern Ohio. The Ohio Journal of Science 96 (1): 29-30.

Kritsky, Gene, A. J. Savage, Susan Reidel, and Jessee Smith. 1998. A survey of the summer tiger beetles of the Ohio River beaches in Ohio and eastern Indiana. Entomological News 109 (3): 165-171.

Table 1. Analysis of sandy substrate for percent composition of gravel, sand, and clay/silt.

Location	% gravel	% sand	% clay/silt
Sheldon Marsh Preserve*	0.34	96.92	2.75
East Harbor North Beach*	0.29	98.77	0.65
East Harbor South Beach*	0.02	97.70	2.28
Indiana Dunes St. Park*	0.19	99.80	0.18
Geneva on the Lake	21.65	78.32	0.03
Crane Creek State Park	24.75	74.76	0.46
Headlands State Park	27.57	71.37	1.06
Meldahl Lock and Dam	4.18	85.53	10.28

\* Beaches with *C. hirticollis* populations



Figure 1. *Cicindela hirticollis* Say.

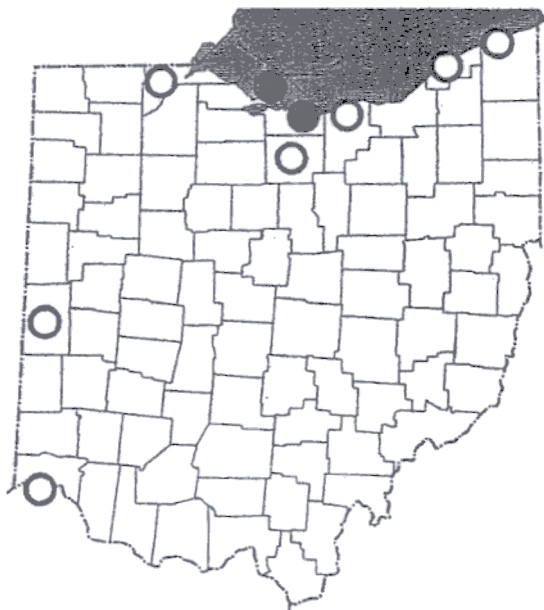


Figure 2. Distribution of *C. hirticollis* in Ohio. Solid circles represent counties with *C. hirticollis* populations and open circles represent counties where *C. hirticollis* has disappeared.



## LEAGUE OF WOMEN VOTERS OF OHIO

17 South High Street, Suite 650, Columbus, Ohio 43215 / 614-469-1505 / Fax: 614-469-7918  
<http://www.lwvohio.org>

December 14, 2001

Ms. Laura Fay  
Section 401 Coordinator, Ohio Environmental Protection Agency  
P. O. Box 1049,  
Columbus, OH 43216-1049

Dear Ms. Fay:

I am writing concerning Sheldon Marsh, a natural preserve on the shore of Lake Erie just west of Huron, Ohio. This Category 3 wetland in the Lake Erie Basin is being threatened by Barnes Nursery, a private industry, which has dug a channel through the wetland ostensibly to provide wildlife habitat. In reality, the purpose of the channel is to provide water for nursery crops at the rate of 350,000 gallons per day.

This dike has already changed the ecology of the marsh area, creating non-point pollution. Erosion from the dike is apparent in the silt runoff into the marsh.

Water allocation in areas of the marsh has been diverted by the dike and channels. This change of flow disrupts the natural filtration function of these wetlands, impacting the plant and wildlife communities there. Altering the filtering ability of wetlands affects water quality for all who depend on Lake Erie for drinking water. Dredging to create and to maintain the channels will increase turbidity and release submerged pollutants and chemical sedimentation into the waters of the marsh.

Dredging of the project is illegal. Proper OEPA permits were not secured before the execution of this project. The permit, hurriedly and improperly awarded by the Corps of Engineers, has not been complied with; the channel is 30 feet wider than the permit specified. These illegal activities have been brought to the attention of the Ohio Attorney General.

To qualify/justify impacts to a Category III wetland, a permit applicant must demonstrate that the project meets an important public need, that is that it provides notable gains to society. The Army Corps of Engineers has determined that the project exists primarily to supply water supply for nursery stock, not to enhance wildlife. There can be no public justification for a private industry to harm a state-owned public area for its own economic gain.


Ohio law also requires that 401 applicants must avoid impacts to wetlands where alternatives exist. There are alternatives to water supply for Barnes Nursery that do not involve invasion and degradation of this marsh complex.

The League of Women Voters of Ohio is an organization that promotes the informed and active participation of citizens in government and encourages action on governmental issues in the public interest. The League is a grassroots organization and its positions are based on study and member consensus.

Through state and national positions, LWVO supports water resource policies that reflect the interrelationships of water quality, water quantity, groundwater and surface water and address the potential depletion or pollution of water supplies; measures to reduce water pollution from direct point-source discharges and from indirect nonpoint sources; and policies to achieve water quality essential for maintaining species populations and diversity, including measures to protect wetlands.

Therefore, the League strongly urges that the marsh be restored to its natural condition and that water quality certification for the Barnes Nursery project be denied.

Sincerely,

  
Terry McCoy  
President

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11/17/10





## THE IZAAK WALTON LEAGUE OF AMERICA

December

Laura Fay  
Ohio EPA, Division of Surface Water  
Lazarus Government Center  
P.O. Box 1049  
Columbus, OH 43216-1049

Dear Laura,

The Izaak Walton League of America has long stood for the sound preservation of our natural resources and its sustainable utilization. In accordance with our national conservation policies, we strongly oppose the issuance of the Barnes Nursery Permit (Permit No. 200002170(1)) or approval under section 401 of the Clean Water Act.

This project has been shrouded with various inaccuracies and activities have made it very suspect. Many of our Ohio members, and myself, are acquaintances of the Barnes family and others as listed in the various permit documents and applications. These people are of good character and have been positively involved in the community for many years. We do not wish hardship on them.

The circumstances are, that this project stands to substantially affect the well being of the Sheldon's Marsh. The installation of a deep-water channel will create a presence of artificial deep-water habitat, which is not consistent with the character of this location. In our opinion, this project would adversely affect the ecological character of the entire wetland area and would serve to potentially have a disastrous effect on the ecological character of this entire location.

The ecological transition of this area in response to various changes in lake levels and environment is part of the complex ecological succession of a Category III Wetland Area. The unimpaired continuance of this succession and its correlated ecological events must not be interfered with and are a part of the natural order of activities.

The project as submitted would adversely effect the surface as well as soil profile hydrology of the area. It further affects the overall water quality of the watershed and serves to substantially modify the physical topographical character of the area.

In evaluating the water needs of the Barnes' Operation, I do not believe that the surface ditch as proposed would serve the water requirements of their operations. The installation and utilization of the proposed ditch, in my opinion would serve to further enhance the drainage of the area and lower the ground water table, which would have an adverse influence on the wetland area.

**NATIONAL OFFICE**  
707 Conservation Lane  
Gaithersburg, Maryland 20878-2983  
Phone: (301) 548-0150  
Fax: (301) 548-0146  
E-mail: [general@iwla.org](mailto:general@iwla.org)

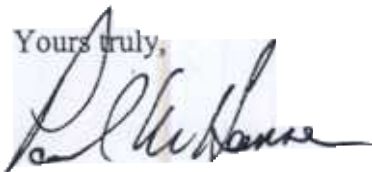


**MIDWEST OFFICE**  
1619 Dayton Avenue, Suite 202  
St. Paul, Minnesota 55104-6206  
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[www.iwla.org](http://www.iwla.org)

In closing, we must assert that the Barnes' Operation does need water, but the pursuit of the water by this means should not be allowed. The utilization of this ditch to enhance their current water supply puts the Sheldon's Marsh Wetlands Area at risk. This area represents a very valuable resource, which is being held in the public's trust. This trust and its responsibility carries with it the necessity for a complete restoration of this location including a supervised extended intervention program for a prolonged period to insure the proper re-establishment of the wetland area and its appropriate soil profiles, surface grade, and appropriate vegetation consistent with the preexisting conditions.

Thank you very much for your time and consideration. If you have any questions or comments, please don't hesitate to contact me anytime.

Yours truly,  


Paul W. Hansen  
Executive Director

cc: Representative Paul E. Gillmor  
Senator Mike DeWine  
Senator George V. Voinovich



01 DEC 1

Richard Graham  
13217 Patten Tract Rd.  
Monroeville, OH 44847  
(419) 465-2283  
Rick.Graham@ohiostatebuckeyes.com

Laura Fay

Ohio EPA, Division of Surface Water

Lazarus Government Center

P.O. Box 1049

Columbus, Ohio 43216-1049

December 13, 2001

Dear Ms. Fay,

My name is Richard Graham, 13217 Patten Tract Rd., Monroeville, OH 44847, (419) 465-2283. I am a resident of Erie County, Ohio and a member of the Izaak Walton League of America, serving as the Co-Chair of the IWLA National Resource Committee on Environment, Health, and Air must voice a strong opinion in opposition to the issuance of a Permit or approval under section 401 of the Clean Water Act.

The Izaak Walton League of America has long stood for the preservation of our natural resources and their sustainable utilization. I have carefully followed and reviewed what has transpired since the projects onset in July of 2000.

In accord with the "Izaak Walton League of America Conservation Policies 2000" numerous sections, but especially Chapter VIII (pages 53-7), I must strongly urge you deny the request for this permit.

This project has been shrouded with various inaccuracies and activities have made it very suspect. I know of the Barnes family and others as listed in the various permit documents and applications. These people are of good character and have been positively involved in the community for many years. I do not wish hardship on them.

The circumstances are, that this project stands to substantially affect the well being of the Sheldon's Marsh. The installation of the deep water channel will create a

presence of artificial deep water habitat, which is not consistent with the character of this location. In my opinion, this project will adversely affect the ecological character of the wetland area and will serve to potentially have a disastrous effect on the ecological character of this entire location.

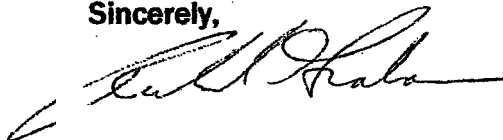
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In evaluating the water needs of the Barnes' Operation, I do not believe that the surface ditch as propose will serve the water requirements of their operations. The installation and utilization of the proposed ditch, in my opinion with serve to further enhance the drainage of the area and lower the ground water table, which would have an adverse influence on the wetland area.

In closing, I must assert that the Barnes' Operation need water, but the pursuit of the water by this means should not be allowed. The utilization of this ditch to enhance their current water supply puts the Sheldon's Marsh Wetlands Area at risk. This area represents a very valuable resource, which is being held in the publics trust. This trust and its responsibility carries with it the necessity for a complete restoration of this location including a supervised extended Intervention program for a prolonged period to insure the proper re-establishment of the wetland area and its appropriate soil profiles, surface grade, and appropriate vegetation consistent with the preexisting conditions.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Graham", with a stylized flourish extending from the end of the signature.

Richard Graham

**From:** "Bob Barrett" <rbarrett@neo.lrun.com>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/11/01 9:26PM  
**Subject:** Public comment on Sheldon Marsh

Dear Ohio EPA officials,

I wish to state my objections to the Barnes Nursery water diversion project that is currently under review. I now teach classes in Environmental Studies at the University of Akron, but as a young man, I worked one summer at a commercial nursery. A quick glance around the roadside ditches there would reveal several alien plant species that had escaped from cultivation, including the highly invasive purple loosestrife. Nurseries routinely use large volumes of insecticides, herbicides, and concentrated chemical fertilizers, which run off into nearby surface waters and often contaminate ground water. Samples of ground water from the site will give a good indication of the variety of agricultural chemicals used in the past. Has any analysis of ground water samples been done?

Allowing a surface water connection from Barnes Nursery to Lake Erie, through the supposedly protected area of Sheldon Marsh State Nature Preserve, is a very bad idea. Although the stated purpose may be to draw irrigation water from the lake, it is likely that the flow will be reversed during peak precipitation and snowmelt events. If the level of Lake Erie declines further, which is quite possible, water will only flow toward the lake. Contaminants in the water departing the nursery can cause drastic negative effects on the marsh, and the larger ecosystem of Lake Erie.

At a time when Ohio's major cities are under pressure to eliminate combined sewer overflows during heavy rainfall, at a cost of hundreds of millions of dollars in each city, how can anyone justify creating a similar problem at Sheldon Marsh? The bacteria in raw sewage are a short-term hazard, but the nutrients, especially phosphorus and nitrogen, contribute to eutrophication in the long term. Elevated nutrient content in water leaving the nursery is an environmental hazard that should be prevented.

I am also concerned about physical damage to the marsh from dredging and filling operations. This damage will continue in the future, if Barnes Nursery is allowed to do maintenance on the canal. It would be better not to allow the canal in the first place.

Last summer I visited Sheldon Marsh, and was quite favorably impressed with the quality of the wetland habitat, as well as the minimal-impact public access provided by the footpath and observation decks. Sheldon Marsh has value as a nature preserve, and as a public park where people may experience nature up close. The people of Ohio would be ill-served if the pursuit of profit by a private company were allowed to degrade such an important public asset.

Dr. Robert P. Barrett  
397 Hallandale  
Fairlawn, OH 44333

**From:** Haans Petruschke <haans@buckeyeweb.com>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/11/01 11:03AM  
**Subject:** Sheldon Marsh

Dear Laura,

I would like to make a few brief comments about Sheldon Marsh and the Barnes Nursery Permit.

I live in Kirtland, in Lake Co. about 60 miles east of Sheldon Marsh. Yet I visit Sheldon Marsh regularly because it is such a wonderful place. It is important to have places like Sheldon Marsh, even though they are not pristine. Because they retain the flavor of what the vast wetlands along Lake Erie used to be like. Relentless conversion to agricultural use has destroyed most of Ohio's wetlands. I have been intimately involved with Mentor Marsh and have seen what harm disturbing a wetland can cause. Mentor Marsh is so dry and so full of phragmites, it is not nearly as enjoyable a place to visit as it was 30 years ago. Nor does it provide the habitat it once did.

Sheldon Marsh fulfills an important need to the public because it provides a place where the public can see what much of the Lake Erie shoreline was like before it was developed. It is also important because it provides the public the opportunity to observe many species of plants and animals that are found in this sort of habitat.

Finally, Sheldon Marsh is in its own way beautiful, and there is something to be said for preserving beautiful places. Denying the Barnes Nursery permit will help to preserve this beautiful place.

Thank you for considering my comments.

Haans Petruschke  
Kirtland, Ohio



**From:** "Dwight Moody" <moody@mail.findlay.edu>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/11/01 9:40AM  
**Subject:** Sheldon Marsh

Laura Fay, Section 401 Coordinator  
 Ohio EPA  
 Columbus,  
 OH  
 December 11, 2001

Dear Ms. Fay,

This past summer, 2001, I conducted the first year of a two year survey of Odonata for the Sheldon Marsh Preserve. Accompanying me were: first investigation, Sheryl Young, Naturalist with the Erie County MetroParks and second investigation, Ron Nemire, Science Teacher, Berlin Heights. On July 3, we identified 5 species of dragonflies, no damselflies and on July 24, we identified 12 species of dragonflies, again no damselflies. There were several odonates we could not get close enough to catch or accurately observe. These species as well as the damselflies, were out in the marsh, which was nearly impossible to wade. Next summer when we work the marsh, we may try some different sampling techniques to increase the species number and the diversity identified.

Next summer I hope there has been no dredging for a dike channel by the Barnes Nursery into this natural Ohio marshland. If a dike is dredged, and the water level is effected, the dragonflies and damselflies will suffer a population decrease and diminished diversity. These losses will adversely effect the entire web of life in the Preserve and surrounding area.

During the past 4 summers a colleague, Gwynne Rife, Ph D., University of Findlay and I have conducted wetland macroinvertebrate studies for the Maumee Valley Resource, Conservation and Development Project, funded by the USEPA, and The Ohio State University, through the Great Lakes Protection Fund. We found the single most critical factor influencing amount and diversity of macroinvertebrates to be water level. The food web of the vertebrates is based on the macroinvertebrates below them.

I didn't mean to get so "teachy", and I'm sure this is information you know as well as I. However, if those of us who have done the wetland research in Ohio don't speak up, the people will continue to lose wetlands to development.

This is one wetland, a Preserve in fact, that wildlife enthusiasts, sportspeople, water users -- both human and animal, cannot afford to degrade.

Sincerely,

Dr. Dwight Moody  
 Professor of Biology  
 University of Findlay  
 Findlay, OH

**From:** Dave Horn <horn.1@osu.edu>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/17/01 4:02PM  
**Subject:** Sheldon Marsh

Dear Ms. Fay,

I am writing to add my comments to those opposed to granting a Section 401 Water Quality permit (application no. 2000-02170(1)) to Barnes Nursery, adjacent to Sheldon Marsh State Nature Preserve. It is my understanding that the existing channelling and dredging adjacent to Sheldon Marsh already divert sufficient water to reduce the quality of this natural wetland.

I am an insect ecologist by profession and have studied butterfly ecology for many years. In Ohio, several wetland-inhabiting butterflies have become threatened or endangered (and at least one has been extirpated). This is a direct result of declining wetland quality, sometimes overtly through draining and filling, and sometimes simply due to diversion of water, setting off irreversible change to dryland habitat no longer suitable for wetland butterflies or their food plants. While no state-endangered butterfly species has been found recently at Sheldon Marsh, we cannot automatically assume that they are NOT sometimes present. Sheldon Marsh may provide enough wetland habitat so that wetland specialist butterflies may be present on occasion and it might serve as a "refuge" at times. Such small patches of habitat are critical to maintaining populations of rare species. The best way to secure the permanence of this wetland is to prevent diversion of its water supply.

Thank you for your attention.

Sincerely,

David J. Horn  
Professor of Entomology, The Ohio State University  
Past-President, The Ohio Lepidopterists



**The Rev'd William W. Worstall, Ph.D., EA**

608 West Monroe Street  
Sandusky, Ohio 44870-2476

Home Phone 419-624-8669  
Email [chink@lrcbg.com](mailto:chink@lrcbg.com)

**RECEIVED**

NOV 30 2001

November 26, 2001

Ohio EPA Division of Surface Water  
Attn: Permits Processing Unit  
P O Box 1049  
Columbus, Ohio 43216-1049

Ohio Environmental Protection Agency

Dear sir or madam:

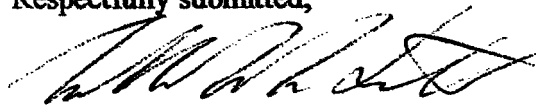
This is to request the denial of the 401 permit allowing the Barnes' Nursery to keep his dike and channel in the wetlands complex which includes the Sheldon Marsh State Nature preserve.

The last several times I have walked through the Sheldon Marsh preserve, I have been appalled at the low level of the waters in the marsh. The Barnes' project has nothing to do with restoring the character of the marsh but rather only to supply water to the nursery.

This hardly represents an important public need. This appears to me as private industry disrupting a natural area for economic gain.

Thus, I reiterate the need to deny the 401 permit.

Respectfully submitted,



William W. Worstall

13,2001

TO: MICHAEL G. MONTONE, PROJECT MANAGER  
U.S. ARMY CORPS OF ENGINEERS  
1776 NIAGARA STREET  
BUFFALO NEW YORK 14207

01 JUN 18 PM 2:09

SUBJECT: BARNES EAST BAY NURSERY PROJECT

DEAR MR. MONTONE

I AM DEAD SET AGAINST THE BARNES PROJECT BECAUSE:

1. LAKE ERIE ISN'T A PRIVATE POND FOR THE USE OF BARNES. IT'S A STATE NATURAL RESOURCE.
  - A. WHY IS BARNES ALLOWED TO PUMP WATER AND HAUL IT ALL OVER THE COUNTY TO HIS VARIOUS LEASED GROWING SITES?
  - B. IS EVERYONE LIVING ON THE LAKE ALLOWED TO PUMP OUT WATER? CAN I PUT A PUMP IN THE LAKE AND PUMP WATER FOR MY LAWN WHEN A WATERING BAN IS IN EFFECT? I DON'T THINK SO!!
  - C. THE LAKE IS SIMPLY GOING THROUGH A DROUGHT CYCLE-AS IT HAS BEFORE. ABOUT A BLOCK FROM MY HOUSE A SMALL ESTUARY OFF THE LAKE HAS ALL BUT DRIED UP. IF WE ARE GOING TO MESS AROUND WITH NATURE PERHAPS WE NEED TO PUT A SMALL DAM IN PLACE TO HOLD SOME OF THE WATER IN THE ESTUARY. I DON'T THINK SO! I AM SURE THAT THE ESTUARY WILL BE FULL WHEN THE WATER CYCLE CHANGES, AS WILL "THE BLACK CHANNEL".
  - D. BARNES COMPLAINS ABOUT THE COST OF BUYING WATER. HOWEVER, EVERYONE ELSE FROM FORD AND G.M. AND EVEN MYSELF HAVE TO PAY FOR WATER
2. REMEMBER WHAT HAPPENED TO THE EVERGLADES WHEN THEY MESSED WITH THE WATER FLOW.
3. EVEN THE CITY OF CHICAGO HAS TO HAVE PERMISSION TO DIVERT WATER FROM LAKE MICHIGAN FOR THE CHICAGO RIVER.
4. IT'S NOT ABOUT HABITAT AT ALL--IT'S ALL ABOUT MONEY.

R.W. KOSKI  
831 SALEM DRIVE  
HURON, OHIO 44839-1438

*R.W. Koski*



***Greater Mohican  
Audubon Society***

1228 Twp. Rd. 653  
Ashland, OH 44805  
December 4, 2001

To Ohio EPA:

Sheldon Marsh is a nature preserve which is saving significant habitat for birds and other wildlife. Not all wetlands are equal, and Sheldon Marsh, as it currently stands, is one of the best. Please note that diverting its water, channeling, dredging, filling, and creating dikes violate its integrity as a habitat and change its water quality. Please deny the 401 permit which would allow Barnes Nursery to keep his illegal dike and channel. It is unfair to the other citizens of Ohio to use this precious resource for one person's profit.

Sincerely,

A handwritten signature in cursive script that reads "Louise Fleming". The signature is written in dark ink and is positioned below the word "Sincerely,".

Louise E. Fleming, Ph.D.  
President, Greater Mohican Audubon Society

RECEIVED

7 2001

Ohio Environmental Protection Agency

**From:** "Jeff Holbrook" <mycteria@stny.rr.com>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/11/01 9:30PM  
**Subject:** Sheldon Marsh

Dear Laura,

I can not believe that a person can flagrantly and knowingly effect the health of a marsh and be given a permit to continue the travesty years after the egregious error was first committed. Talk about putting ones self above the law. This is a travesty. Please deny the Barnes Permit. To permit it is like signing away the laws that are meant to protect all the other wetlands in your state. This unfortunately is not just an Ohio issue. We around the country are watching this as it unfolds. I can't believe this is happening. Again, this is a travesty. Please see that the Barnes Permit is stopped.

Thank You!

Jeff Holbrook  
Corning, NY

*no mailing address*

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**From:** Don Gorney <dongorney@yahoo.com>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/11/01 12:01PM  
**Subject:** Deny the Barnes Permit

Although I am an Indiana resident, I have been to Sheldon Marsh Nature Preserve several times as a birdwatcher. I was in the area watching birds and one year I even attended a birding festival held in that area. So I am familiar with Sheldon Marsh and have enjoyed the site very much.

I hope your agency considers the impact that the Barnes permit would have on a nature preserve but also on tourism. Without sites such as Sheldon Marsh there is no reason for birdwatchers to visit the area. If the integrity of Sheldon Marsh is eroded it has the same impact as if the site didn't exist in the first place.

I am at a loss at how a private business can take measures that ultimately will destroy part of a state nature preserve. I think it sets a terrible precedent and is frustrating for many of us who continue to see bits and pieces of our natural world destroyed each day.

I hope your agency denies the Barnes permit so that the integrity of a state nature preserve is not destroyed.

Don Gorney  
Indianapolis, IN  
dongorney@yahoo.com  
www.dongorney.com

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Do You Yahoo!?  
Check out Yahoo! Shopping and Yahoo! Auctions for all of

84 Orchard Grove  
Painesville, Ohio 44077

April 22, 2001

01 APR 26 AM 11:13

ATTN: Lt. Col. Glen Dewille  
District Engineer  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, New York 14207-3199

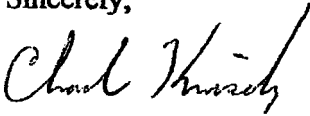
Dear Lt. Col. DeWillie:

Recently, I have been made aware of some concern over Sheldon Marsh in Erie County. It is my understanding that Barnes Nursery has partially completed the construction of a dike, and wetland impacts have occurred.

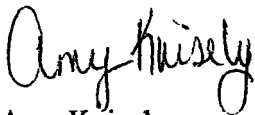
Being from northeast Ohio I have seen first hand what can happen to wetlands, Mentor Marsh for instance, when a disturbance occurs. Now Mentor Marsh is nothing but a sea of common reed.

Seeing that Sheldon Marsh is a Category 3 wetland as was Mentor Marsh, how can we allow any disturbance to occur at all? It is my understanding that Category 3 wetlands cannot be impacted at all unless there is some strong public need. I do not consider the construction of a dike to provide water to a nursery a public need. With that being said I encourage you to deny any permit application, and force Barnes Nursery to restore Sheldon Marsh before it becomes 463 acres of common reed and purple loosestrife. There just is not enough of these wetlands, especially around the islands, to play around with.

Sincerely,



Chad Knisely  
Environmental Biologist



Amy Knisely  
Environmental Education

**Montone, Michael G LRB**

**From:** dave & jacquie clark [djclark@nwonline.net]  
**Sent:** Wednesday, May 30, 2001 7:24 AM  
**To:** Montone, Michael G LRB  
**Subject:** Sheldon's Marsh Hearing

Good Morning: I wish to add my voice (a "voice of one" to paraphrase your current recruiting ad) to object to the Barnes intrusion into Sheldon's Marsh, a treasured local gem. As you well know, the Marsh is a cat III wetlands and MUST be protected from commercial invasion. That, gentlemen, is your mission. If you bow to private--vice public--interest again, what little confidence I have left in the Corps will disappear forever. Don't let us down.

Not that it makes an iota of difference, but I am a retired Air Force 0-6. I know the pressures you face, but surely courage and common sense can prevail. The "they'll never miss a little piece" philosophy that Barnes is using won't cut it anymore. Stop the SOB. Now. And make his clean up his past intrusions. It's the right thing to do, and that fact could not be any clearer to even a casual observer like myself.

I am unable to attend your public meeting in Sandusky on 12 June, but know that the public outcry will be persursuasive to you. Unless, of course, you have already decided this matter and the entire hearing process is a farce. What a surprise that would be. How about one for the good guys this time.

David E. Clark, Col USAF (Ret.)  
721 Windward Circle  
Sandusky, OH 44870

--

Jacquie Clark  
News-4-You, Ltd.  
P.O. Box 550  
Huron, OH 44839  
[www.news-4-you.com](http://www.news-4-you.com)

**Montone, Michael G LRB**

**From:** carol leininger [cleining@lorainccc.edu]  
**Sent:** Wednesday, May 30, 2001 8:57 AM  
**To:** Montone, Michael G LRB  
**Subject:** Save Sheldon Marsh

Dear Sirs:

I am writing to ask you to please deny an individual permit application in Sheldon Marsh wetlands complex to an AFTER THE FACT authorization for the existing dike and channel, and to please restore Sheldon Marsh Complex to its pre-destruction condition.

Barnes' original permit was in violation - fifty feet wide rather than the twenty feet with the possibility of this waterway being used for recreational boat traffic. Barnes' original permit was inapplicable - nationwide permits are not to be issued in category III wetlands or for water supply; this project met none of the Army Corps requirements for nationwide permits and was issued one day after it was applied for; this permit was then rescinded when it was determined that Barnes' purpose was for water supply and not for waterfowl nesting islands and deep water habitat as originally stated in the project application. Barnes' original permit was unauthorized- no other required authorizations were obtained; these authorizations include OEPA water quality certification, Ohio Coastal Zone Program consistency, US Fish and Wildlife endangered species consultations, Erie County flood control, etc. (It is highly unlikely that these agencies would have authorized the permit.

I am asking you to deny this permit in its entirety with no modifications or conditions attached and a complete restoration of Sheldon Marsh take place as soon as possible. The following objections are pertinent to Barnes' new request for modifications:

Water quality becomes a concern because waters of the constructed dike/channel are in contact with Sheldon Marsh and critical fish spawning habitat. Commercial and recreational fishing rely on fish spawning areas in the marsh, which are impacted by water turbidity. US Fish and Wildlife Service has designated Sheldon Marsh area as critical habitat for Piping Plover, a federally listed endangered species.

The dike promotes nesting of undesirable bird species, which would negatively impact the Piping Plover, and create a convenient avenue for invasive plant species.

Destruction of the mud flats connected with the Sheldon Marsh complex would be harmful to one of the best shore bird staging areas on Lake Erie.

Maintenance of the dike/channel over time would cause ongoing human impact in a sensitive nature preserve, adversely affecting wildlife and neotropical migrating birds.

Only 5% of original wetlands in Ohio remain. Granting this permit jeopardizes the integrity of this unique wetland.

Impact on eco-tourism is of concern with over 80,000 people visiting Sheldon Marsh SNP each year, supporting the local economy.

Ongoing educational and research values provided by Sheldon Marsh could be adversely affected through increased disruption of this environment.

Altering the ecosystem will adversely impact the value of the natural filtering system of the marsh which improves water quality for the many lakeshore communities using Lake Erie water.

Carol L. Leininger, Professor Emeritus,

*Lorain Community College*

*Jim Bednarik*

30 May 2001

James and Betty Bednarik  
108 Cliffside Drive South  
Wakeman, Ohio 44889

US ARMY CORPS OF ENGINEERS  
Attn: Michael G. Montone  
1776 Niagra Street  
Buffalo, New York 14207-3199

Sir:

We are opposed to any additional digging, dredging, or diking that threatens the Sheldon Marsh State Nature Preserve with its barrier beach and wetlands area. The initial Permit 27 was opposed and was ruled invalid. Granting a new and expanded permit would compound the damage to this unique and vital natural area. It would also totally abandon the policy stated with the rescinded Permit 27 to return the Sheldon Marsh complex to its pre-nationwide permit condition.

Our earlier correspondence prompted responses from both Ohio Senators, the Ohio Governor, the Ohio Department of Natural Resources, and the Army Core Of Engineers. All professed their support for the protection of significant natural areas, especially wetlands. Along with these, ongoing programs of organizations such as the Nature Conservancy, the Audubon Society and the Ohio Department of Natural Resources are dedicated to efforts to preserve existing areas and to identify natural areas worthy of preservation. Granting a permit that threatens a known Catagory III wetlands like the Sheldon Marsh would be a rejection of this movement.

There is also the serious issue of the interdependency of natural areas. The Sheldon Marsh must be viewed within a local broader complex that includes the protected Old Womans Creek Estuarine and the Dupont Marsh areas. Isolated pockets of natural area are more at risk than a complex and varied habitat.

Finally, we do not understand the rational stated for this permit. If the purpose is solely to provide for the irrigation function, why is a 50 (or even a 20) foot channel necessary? We know of no local communities that require a channel to provide for their Lake Erie water needs. Channels are a logical precursor for the commercial development of lakefront property to provide watercraft access to the lake. If this seems a logical objective, then the current application should be reviewed with the requirements and the vigor appropriate to a development request that could adversely effect a Catagory III wetlands complex.

We urge you to reject this request and to order enforcement of action to immediately remove the existing dike/channel to return this area to it's original condition.

Thank You



December 4, 2001

Laura Fay  
OEPA Division of Surface Water Permits Processing Unit  
Columbus, Ohio

Dear Laura Fay:

Please take seriously your responsibility to protect the incomparable beauty of this rare and wonderful place....It's too late for most of Ohio's natural shoreline. So it is imperative that the EPA act now, to stop further losses.

Sue Gorisek  
Freelance Writer

(See enclosed PLAIN DEALER SUNDAY MAGAZINE story and photos of Sheldon Marsh)

419/994-3252  
303 North Water St.,  
Loudonville, Ohio 44842

Can be reached at  
The Blackfork Inn B&B  
[bfinn@bright.net](mailto:bfinn@bright.net)

01 DEC -7 AM 10:52  
OHIO EPA  
L207-WG

12/4/01

# WHERE THE BIRDS



## ARE

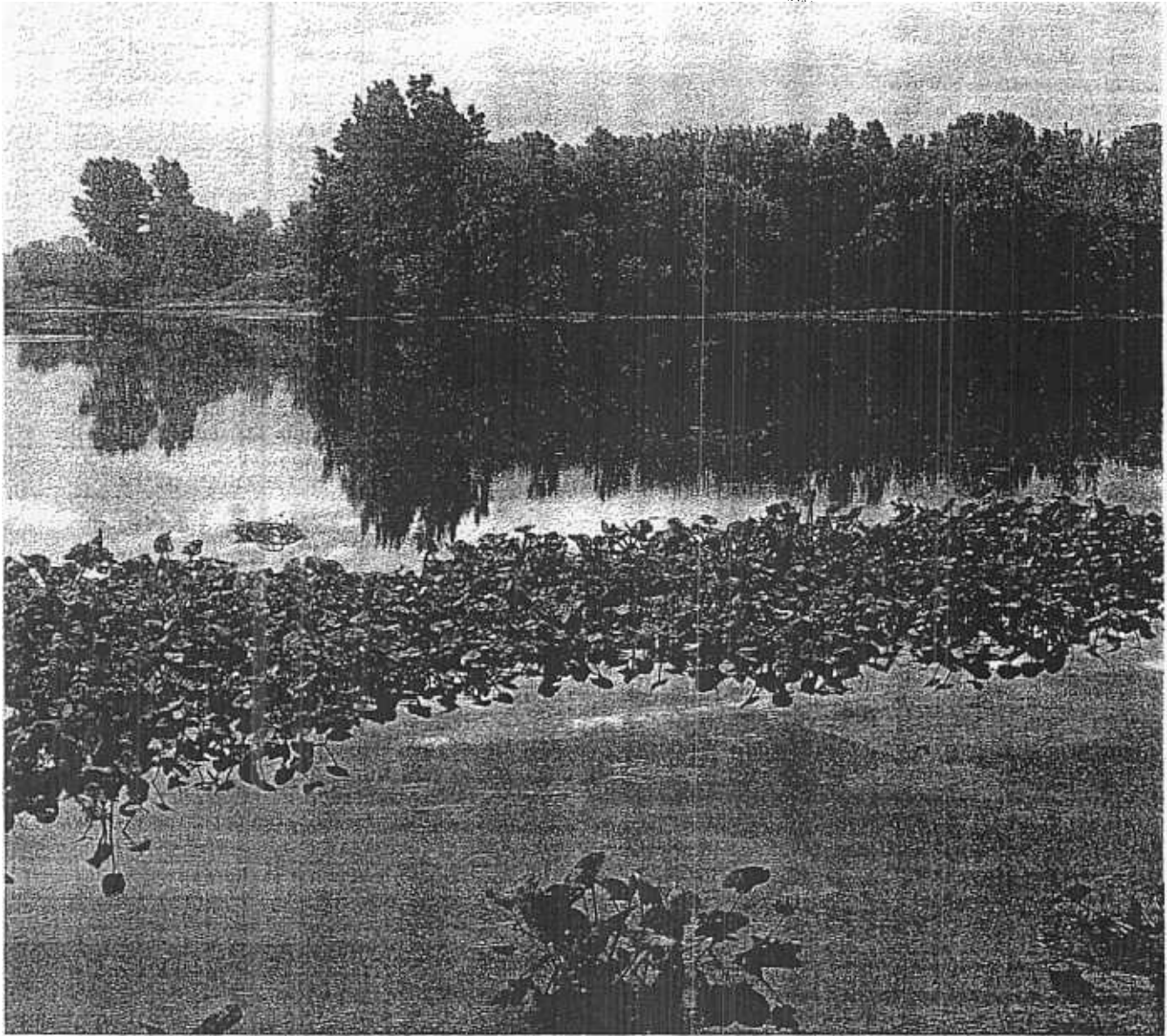
WALKING THE WOODS IS SURELY AN ADMIRABLE PURSUIT. BUT YOU'VE NOT TRULY LIVED UNTIL YOU'VE TAKEN BINOCULARS IN HAND AND CAUGHT AN EAGLE IN FLIGHT OR A WARBLER ALIGHT. WE SHOW YOU THE WAY.

Story by SUE GORISEK  
Photography by IAN ADAMS

I'd always wanted to be a birder. I imagined myself strolling across meadows, with a field guide in one hand and binoculars in the other, spotting new species, proudly adding their names to my lengthy life list (the "score" that birders keep, to impress their fellow bird-watchers). Then I tried it.

I studied. I even took eight weeks of classes at the Cleveland Museum of Natural History, where we practiced the weird science of learning to identify birds by looking at "skins," which are really just stuffed birds – little cadavers, nicely taxidermied and neatly laid out, each in its own little file drawer – like bodies in the county morgue.





**BIRD-WATCHER'S HEAVEN:** Morning light adds drama to the barrier beach at Sheldon Marsh State Nature Preserve in Erie County, where a Magnolia warbler (*opposite*) is just passing through.

# More Than a Wing and a Prayer

There's no need to go it alone, out on a limb so to speak, when you have Wing Watch on your side.

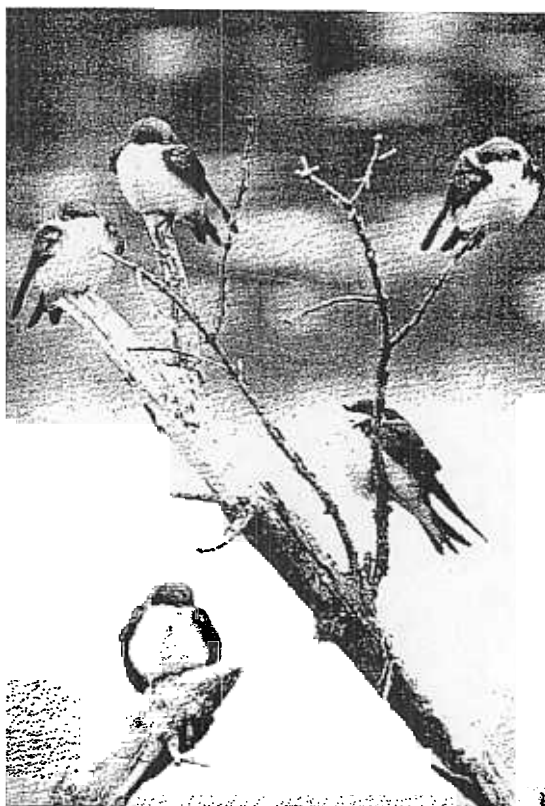
In the early 1990s, some smart promoter realized birds could be a gold mine. So, Lake Erie Wing Watch was organized. This group, composed of wildlife managers and tourism professionals, promotes the fact that three of Ohio's shoreline counties - Lorain, Erie and Ottawa - offer some of the nation's best birding. Since then, Wing Watch's efforts have boosted the local economies by extending the tourist season and tapping into a whole new market. They've also helped birders by coordinating and publicizing bird-watching events so there is much more for birders to see and do. For maps and a calendar of guided bird walks, call Wing Watch at the Ottawa County CVB.

Among our personal favorites are these well-organized events:

## May 13

**BASS ISLAND BIRDATHON - PUT-IN-BAY,** Ottawa County Convention and Visitors Bureau, 1-800/441-1271. Guest speakers, guided tours to birding hot spots all over the island and a personal tour of the Alaska Bird House Wildlife Museum with the owners who tell fascinating stories of their days in the wild.

**INSIDER TOURS OF OTTAWA NATIONAL WILDLIFE REFUGE,** 14000 West Ohio 2, Oak Harbor, 419/898-0014. A rare



Tree swallows fatten up for the long-haul flight they will make across Lake Erie.

opportunity to drive through the refuge, as the road is open to traffic only one day in spring and one day in autumn to witness the bird migrations. If conditions are right, you'll see thousands of warblers and other songbirds, massed in a holding pattern as they make up their minds to brave the last leg of their northward journey - the dangerous, exhausting flight across Lake Erie to Canada. This is a good event for children with lots of guided hikes and activities for youngsters. At Magee Marsh, adjacent to the refuge, children love the wagon rides across the wetlands and through the forests, and the bird-banding demonstrations by rangers and other experts.

## May 14-20

**NEST WITH THE BIRDS AT KELLEYS ISLAND,** Kelleys Island Chamber of Commerce, 419/746-2360. This weeklong program is like an old-fashioned Chautauqua - you learn a lot and have fun, too. Daily bird walks are at 8:30 a.m. and 4 p.m.

Daily lectures are at 1 p.m. at St. Michael's Hall. On the last day, island B&Bs throw open their doors for a progressive party so you can see inside all the inns and meet the innkeepers - and maybe scope out the territory for next year's event.

- S.G.

I learned a great deal about what birds look like when they are lying perfectly still, in their tiny coffins. Their prayerful pose, with their little feet tucked up to their chests, always made me think a tiny string of rosary beads would be a nice touch. But I never had much luck identifying birds in the field - birds that actually moved when I was trying to count their wing stripes and check the color of their eye rings. Birds on the fly did not look anything like birds in a box, I decided after trying it in the South Chagrin Reservation of the Cleveland Metroparks. I began to hate the whole idea of bird-watching. I retired my field guide and gave away my binoculars.

Then a bird-watching friend took me to Sheldon Marsh, near Huron.

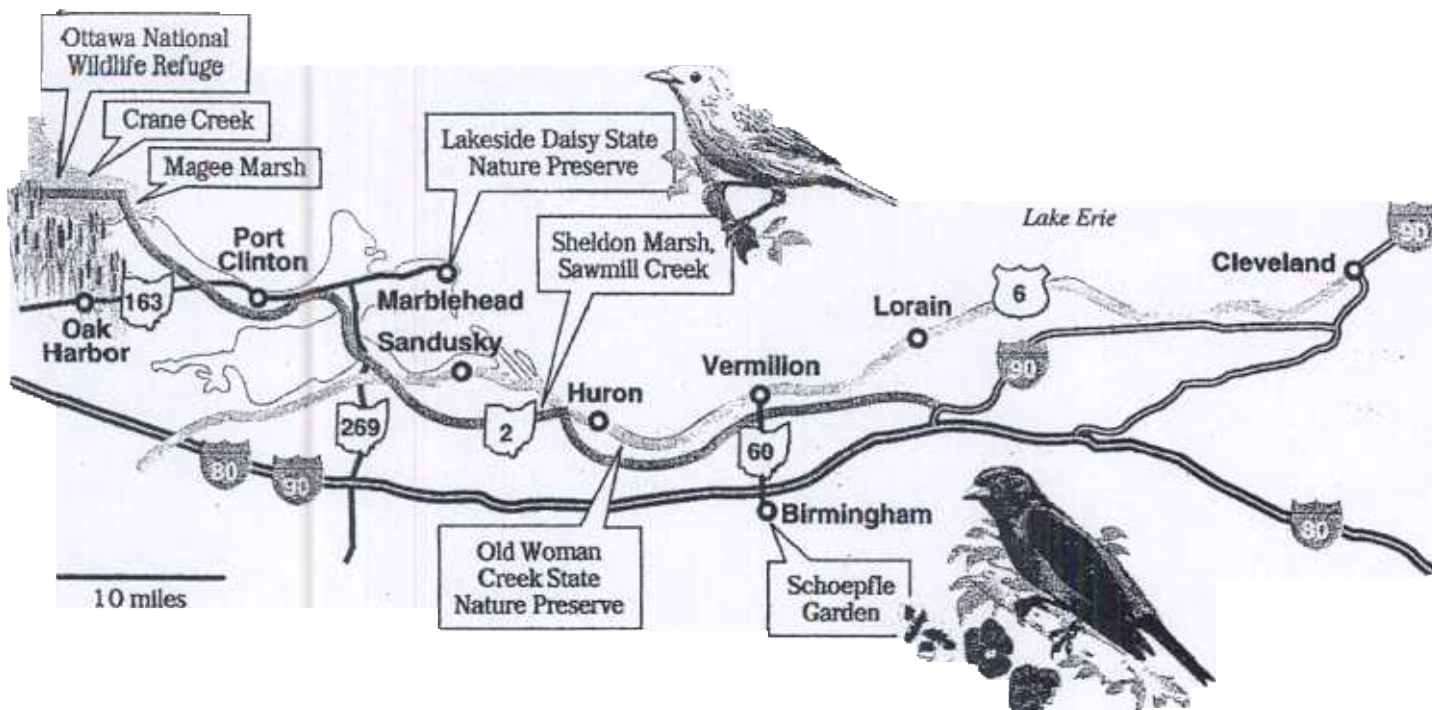
Suddenly, there were birds that even I could identify. Big, bold birds that practically called out their names as they flew overhead. "Ta da," cried the tundra swan, blaring like a beagle with a sinus condition, announcing itself with all the subtlety of a big brass band. At Sheldon Marsh, the birds were so easily identifiable they might have been wearing signs around their necks: "Look at me, I'm a loon!" "Check me out, I'm an egret and I'll stand perfectly still, balanced like a stork in my familiar, one-legged pose, until you finally figure it out."

Now this was birding! Both fun and

rewarding, with enough success involved to make a beginner want to come back more.

That's why, every spring, I urge beginning birders to start at Sheldon Marsh State Nature Preserve, which is on Lake Erie less than 90 minutes west of Cleveland. It's a great place to introduce children to the joys of bird-watching. In some kiddie incentives to generate competition among the siblings and y have their rapt attention: A nickel every turtle the kids spot on the marsh (watch your generosity; there are hundreds of turtles, including some snapping turtles that grow as large as 100 pounds); or a quarter for every new





they learn to recognize.

If monetary rewards are too crass for your taste, promise them a swim in the indoor pool at **Sawmill Creek Resort**, which is next door to the marsh. (*Sawmill Creek Lodge, Ohio 6 just west of Huron, 609 Mariner Village, 1/800-SAWMILL, room rates \$90 - \$150, with 10 percent discount for birders. Ask for the Wing Watch discount.*)

Adults will enjoy this classy resort, where you can warm your feet by the fire in one of the rustic lounges that the lodge is famous for and enjoy first-class cuisine prepared by a real Swiss chef, splendidly served with candlelight and good wine. Kids will appreciate the large indoor pool and the well-equipped game room. Plus, there are tennis courts and museum-quality exhibits that tell the story of the Native Americans that once lived on these shores.

For early morning bird-watching, the convenience of Sawmill Resort is unbeatable. Brew a pot of coffee in your room, fill a thermos and sip your first cup as you walk across the parking lot to the nature preserve. If you need your morning coffee to keep going, bring your thermos and cup with you, but be sure to not leave it - or anything that might be litter - behind.



Open to the public only in May, **Lakeside Daisy State Nature Preserve** is the only place in the country where the flowers grow naturally. If you stay awhile, you can watch the daisies turn their pretty heads as they follow the sun.

Begin your bird walk by strolling north toward the lake, on the paved pathway that was once the road to Cedar Point. It takes you through a series of habitats, from meadows to cattail marshes to mud flats, where migrating shore birds - all kinds of

yellowlegs, plovers and sandpipers - can be found fueling up for their flight across Lake Erie to their summer breeding grounds in Canada. In the pre-dawn hour, my favorite time to start my walk, the wildlife may just be winding up for their big morning show with the first arpeggios of bird song. Or winding down, in the case of the spring peepers and other frogs that fill the night with urgent entreaties.

The paved path is wheelchair accessible, as is the boardwalk that takes you out across the watery cove that is enclosed by Sheldon Marsh's barrier beach. This is dramatic scenery. It looks like a picture-postcard view of the sand spits normally found on Atlantic seaboard barrier beaches. Here, the sand spit extends nearly a mile out into Lake Erie and tails off to the west, toward Cedar Point. Just east of the boardwalk, you can scramble over a low rock wall and onto a lovely wilderness beach that's part of the Sawmill Resort property.

I like to plan my early bird walk so that I arrive at the beach just as the sun is coming up. It's an awesome sight, this first blush of morning, transforming water and sky into a luminous mirror that reflects the subtle shift of

night into day. During spring migration season, however, you won't be able to enjoy it alone. There will be lots of folks with binoculars, birders who come from all over the country to witness this once-a-year phenomenon when the sky is like a river of birds, headed north.

Later in the morning, when the sun is higher and the fog has burned off, walk the grassy trail that goes through the Sheldon Marsh woodlands that are bright with wildflower blooms, and more varieties of warblers than you've ever seen in one place – the males are mere flashes of color playing hide-and-seek among the trees (various warbler species boast strong shades of blue, green, red, yellow and orange, although the females are usually plain earth tones).

These exotic neo-tropical birds are just passing through. But they pause for a long while at Sheldon Marsh, feeding voraciously, gulping up for their long-haul flight across the reacherous open waters. Their delay is our delight. Even if you can't tell one warbler type from another, you'll enjoy the show at this annual springtime feeding frenzy as they gorge themselves on the bug-feast at Sheldon Marsh.

You can continue your bird-watching adventure nearby at another birding hot spot just minutes away by car, **Old Woman Creek State Nature Preserve** (Ohio 6, three miles east of Huron; 419/433-4601). There is a wonderful visitors center, with a living-stream aquarium that makes you feel as if you're part of the action. The center is open Wednesday through Sunday, 1 - 5 p.m., but the trails are open daily, 8 a.m. - 5 p.m. There is a lot to see, including another beautiful wind-swept barrier beach that is continually being altered by pounding waves and shifting sand; and a rare freshwater estuary, where the creek waters turn with the lake waters to create a unique environment – an extremely rich broth, teeming with life, from microscopic plankton to 40 kinds of fish that eat the plankton, to majestic-looking American eagles with 7-foot wings that swoop down to eat the fish.

While you're looking for rare birds, be sure to check out the rare flowers at **Lakeside State Nature Preserve** (440/839-1561), an old limestone quarry on the Marblehead Peninsula. (From Huron, follow Ohio 6 west on Ohio 269 north to Ohio 163 east to the village of Marblehead. The preserve is on Alexander Pike – Twp. Rd. 142, just south of village.) This is the only place these endangered plants grow naturally. The preserve is open to the public only in May, so this may be your only chance to see the startling show the unusual plants make as they turn the limestone bedrock into a sea of gold. Stay awhile to watch as the flower beds track across the sky in unison, following the sun's movement from east to west.

If you have time to extend your trip, drive on Ohio 6 to Ohio 2 west to Oak Harbor to try your luck at Ohio's two premier birding spots, **Magee Marsh State Wildlife Area** (898-0960) and **Ottawa National Wild-**

## Spots Not to Miss

Rejuvenate and compare notes about your sightings by stopping for a bite to eat.

**O**n our birders' holiday, mealtimes can be as formal – and pricey – as the elegant **Salmon Run**, the fine-dining option at **Sawmill Creek Resort** (419/433-3800) or the authentic French fare at **Chez Francois Restaurant on the River**, (555 Main St., Vermilion, 440/967-0630). Or, you can go casual at places such as the **Sand Bar** (54 McKinley Rd., Huron, 419/433-2144), a local dive where the perch is fresh and the soup homemade. For a great family restaurant with a big menu and wonderful pies, try **Berardi's** (218 Cleveland Rd., Ohio 6, east of Huron, 419/433-4123). Picnics are a wonderful option at **Crane Creek State Park** (419/898-2495), next to Magee Marsh in Oak Harbor. This is Ohio's most beautiful beachfront picnic area, shaded by enormous cottonwood trees that offer relief from the sun and wind.

– S.G.

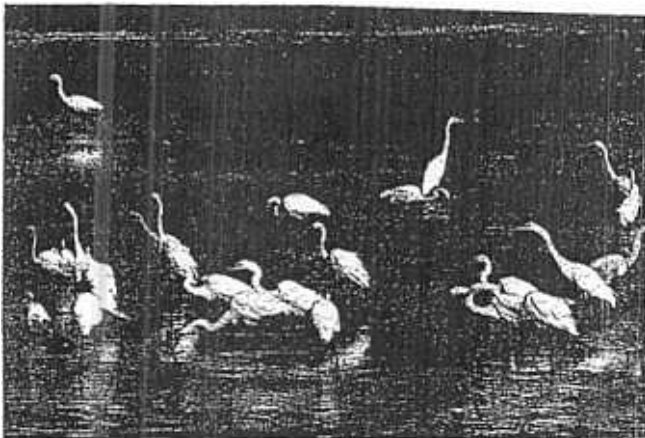
**life Refuge** (419/898-0014), located on either side of **Crane Creek State Park** just east of Toledo.

These are not great spots for beginners, though. Unlike Sheldon Marsh, which is self-contained and cozy, encouraging the birds to come in close, these wetland preserves are vast – forming an enormous ocean of waving reeds, so that you, hapless birder, feel like a mere speck in the cosmos. Still, for sheer drama, it's a thrill to stand in the wind on one of the built-up levees and watch the masses of birds flying over. Climb the observation towers to see the big picture – this is like Big Sky Country out West, with absolutely nothing between you and the horizon. For a closer view of the birds, try the telescope mounted on one of the towers.

Beginning birders tend to feel overwhelmed, but there are always experts around to give you a hand. You'll be amazed at the crowds. Some days there are thousands of birders from all over the world who have come to add new species to their life list. Don't hesitate to ask for help. Birders love to share their skills. Announce that you're a beginner, and they'll flock to your aid. "Grebe at 9 o'clock," they'll shout, incomprehensibly pointing to some barely visible speck flying across an imaginary point on an imaginary clock in the sky. Don't worry. You'll get the hang of it. Soon you'll be dividing the sky into hourly segments, too, to make tracking easier, and you'll be seeing grebes at 9 o'clock, right along with the rest of the birders.

On the way back to Cleveland, detour to **Schoepfle Garden** in Birmingham (about 10





Among the hundreds of species that gather along the lake Erie shoreline in May are American egrets (above), male scarlet Tanager (left) and singing male yellow warbler (below). Depending on weather conditions, they may stick around for several weeks, waiting for favorable tail winds.



miles south of Vermilion, via Ohio 60; 440/965-7237). In this splendid public garden, the formal beds are exquisite and the woodland trails are a joy, with the bonus of hundreds of migrating songbirds that visit this garden in May.

Trust me, this is much more fun than studying dead birds in a box. ■

For information and discounts on lodgings, call the following Convention and Visitors Bureaus: Erie County, 1-800/255-ERIE (3743); Lorain County, 1-800/334-1673 or 440/245-5282; Ottawa County, 1-800/441-1271.

Sue Gorisek now does her bird-watching in Loudonville, where she operates a bed and breakfast. She can be reached through [magmail@plainsd.com](mailto:magmail@plainsd.com).

2321 Bixler Drive  
Suffield, Ohio 44260  
23 November 2001

Laura Fay  
Section 401 Coordinator  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216

Dear Ms Fay:

I am writing to comment on the Clean Water Act Section 401 certification from Barnes Nursery (application no. 2000-02170(1)). Barnes Nursery dug a channel from Lake Erie adjacent to Sheldon Marsh State Nature Preserve without authorization. The U.S. Army Corps of Engineers has a request to issue an after-the-fact individual permit allowing Barnes Nursery to keep the channel and resultant dike.

I urge you in the strongest possible terms to deny this application. Barnes Nursery ignored the law to begin with, trying to avoid public scrutiny of their heavy-handed efforts to increase the profitability of their business at the expense of the public. The process should not have been allowed to get this far. The regulatory agencies immediately should have ordered Barnes Nursery to restore the ecological damage done by digging the channel. The wild marshes, the beaches, and the forests are being taken from us — insidiously, slyly, steadily. What is the purpose of our environmental regulations if not to safeguard us from scofflaws like Barnes Nursery?

I want our state and federal governments to stand strong and firm in showing Barnes Nursery that they can't compromise the ecological integrity of a state nature preserve. Sheldon Marsh is public land, set aside to protect one of the last remaining wild beach-marsh ecosystems on Lake Erie. Don't let it be destroyed.

Hydromodification, such as Barnes Nursery's channel and dike, is the largest factor causing nonpoint source pollution in the coastal wetlands of Lake Erie. Think of the slaughterous runoffs of spring. Think of the slumpage and collapse of the dike, the sedimentation of marsh and lake, the nutrient overloading, the crushing fragmentation of habitat. Don't allow another coastal marsh to be sacrificed for private interests.

The hydrology of the Sheldon Marsh ecosystem is seriously threatened by the new channel. The marsh will suffer long-term negative impacts, destroying habitat, degrading water quality, and compromising the surrounding Lake Erie ecosystem as a source of drinking water and recreational angling. Don't tolerate further degradation of our precious Lake Erie.

15:11NW LZ AON 10



I would like to point out that I'm a wetlands scientist with over 30 years of experience working in aquatic ecosystems on four continents, including extensive experience in the Great Lakes watershed. I wrote a book featuring the great natural areas of northern Ohio. One of the chapters is devoted to Sheldon Marsh State Nature Preserve. I wrote, "[Sheldon Marsh] gained fame among birders as one of the best sites in the Midwest for observing spring and fall migrants. The preserve's location near the intersection of the Atlantic and Mississippi flyways makes it ideal for multitudes of birds who need to rest and feed either before or after the long flight over the lake. Some 300 species have been sighted year round, about one-third of all bird species in the United States."

I have not often seen an issue such as the Barnes Nursery debacle where the environmental stakes are so high or where the lines between private greed and public good are so dramatically illustrated. There should be no question about your decision. You must uphold the law. How much room is there in application no. 2000-02170(1) for what we are running out of, which are untrammelled natural areas? Sheldon Marsh must be restored to its pre-construction, natural condition. Your job should be to help preserve the sanctity, mystery, awe, and power of wild places, especially those like Sheldon Marsh that are in public ownership. To do less is to abrogate your responsibility and betray the trust of the citizens.

When the government is spending taxpayer money to protect water sources on public lands to benefit the nursery business, the only thing being benefited is the ability to grow nursery stock at lower cost for the owners. Meanwhile, the natural areas around us are being compromised, like beach sand crumbling at the touch of the waves. Our dwindling wild places should remain the greatest living sanctuaries on earth for our long, long list of endangered and threatened and sensitive species. We need to protect and preserve the last mucky marshes, the last few public wildlands.

I want more, not less, of the kind of landscape that reminds us of the wonders of life. We have enough, more than enough, of the chained and roaded, plowed-under and dug-out lands, so subservient to our short-term hungers. We can never re-create our last few wildlands after they are gone or altered. We can only protect them, and treasure them — or, if we fail, tell stories about them after they're gone.

Thank you for reading my letter and adding my comments to the official record. Most of all, thank you for not caving into private interests and ceding more wild territory.

Sincerely,

A handwritten signature in cursive script that reads "Jay Abercrombie". The signature is written in dark ink and is positioned above the printed name.

Jay Abercrombie, Ph.D.

## Montone, Michael G LRB

From: Abercrombie Jay [JAbercrombie@davey.com]  
Sent: Monday, June 11, 2001 9:53 AM  
To: Montone, Michael G LRB  
Subject: Comment on Sheldon Marsh Wetlands

2321 Bixler Drive  
Suffield, Ohio  
44260  
11 June 2001

Michael G. Montone  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, New York 14207

Dear Mr. Montone:

I am writing to comment on the individual permit application of Robert W. Barnes in the Sheldon Marsh wetlands. The stated purpose is to restore former hydrology and provide irrigation for Barnes Nursery.

I am very familiar with Sheldon Marsh, having conducted numerous biotic surveys in the state nature preserve and in surrounding wetlands. A chapter in my book Walks and Rambles in Ohio's Western Reserve is devoted to Sheldon Marsh.

Sheldon Marsh is one of the few unaltered ecosystems remaining on the Lake Erie shore. Its protection and preservation should be paramount for natural resource regulatory agencies such as the U.S. Army Corps of Engineers. Your original approval of Nationwide Permit 27 to Mr. Barnes in June, 2000 was a mistake. Please do not compound that mistake by authorizing Mr. Barnes's after-the-fact actions in the Sheldon Marsh wetlands.

Sheldon Marsh is a Category III wetlands determined by the Ohio Environmental Protection Agency---the least disturbed, most pristine type of wetlands in the state. Sheldon Marsh should be returned to its pre-nationwide permit 27 condition immediately. This means removing the dike and filling the 50-foot-wide channel constructed by Mr. Barnes without authorization. This means denying Mr. Barnes's after-the-fact permit application in its entirety, without modifications or conditions.

Please use your authority to protect the marsh ecosystem, to set aside narrow economic interests, and to preserve this unique ecological treasure for the benefit of all citizens. Thank you.

Sincerely,

Jay Abercrombie,

Ph.D.

## Montone, Michael G LRB

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From: Dorothy M. Dwight [ddwight@orion.it.luc.edu]  
Sent: Friday, June 08, 2001 3:37 PM  
To: Montone, Michael G LRB  
Subject: Sheldon Marsh permit for R.W. Barnes

June 8, 2001  
Michael G. Montone  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, NY 14207-3199

Dear Mr. Montone:

I write to urge you to take two actions on June 12:

1) that you deny in its entirety the permit requested by Robert W. Barnes that would authorize him, after-the fact, to construct a fifty foot wide channel and dike and an additional 500-foot long channel in the Sheldon Marsh wetland complex; and

2) that you require the restoration of the Sheldon Marsh complex to its pristine, pre-NWP 27 construction condition.

I object to granting of the permit for a number of reasons:

1) This project meets none of the Army Corps requirements for Nationwide permits.

2) Even though the Army Corps initially (and mistakenly) granted Barnes a Nationwide Permit (NWP 27) to dig a 20-foot channel in the OEPA-designated, category III wetland, ACE subsequently rescinded that permission when it became clear that Barnes purpose was enhancing water supply for his nursery.

3) Other required authorizations (e.g., OEPA Water Quality certification, Ohio Coastal Zone Program consistency, US Fish and Wildlife endangered species consultants, Erie County flood control) were not obtained.

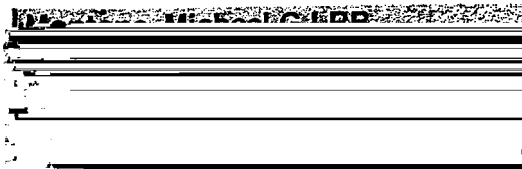
4) Barnes violated the NWP 27 by digging a fifty foot wide channel rather than the twenty feet allowed by the initial permit.

5) The channel surely will impact negatively a critical fish spawning habitat, endangered bird species, wildlife and neo-tropical birds, the natural filtering system of the marsh, and eco-tourism.

I urge you to preserve the ecosystem along the Lake Erie shoreline at Sheldon Marsh by requiring prompt restoration of the complex to its pre-construction condition.

Sincerely,

Dorothy Dwight, BVM, Assistant Professor  
Loyola University Chicago  
June 8, 2001  
Michael G. Montone



Dear Mr. Montone

would like to add my objection to the granting of an individual permit to Robert W. Barnes for restoring former hydrology to east Sandusky Bay and obtaining irrigation for Barnes' Nursery.

I am asking for complete restoration of Sheldon Marsh complex, a category III wetland, to its pre-NWP 27 construction condition. I would like to see this accomplished without any modifications or conditions.

This site has provided sorely needed stopover habitat for long distant migrant avifauna and lepidoptera. The 1999 sighting of a Regal Fritillary there was the only such sighting in the past 5 years in Ohio.

Sincerely,  
Larry Rosche  
Editor: Cleveland Bird Calendar  
7473 Sylvan Drive  
Kent, Ohio 44240  
(330) 678-9408

to: U.S. Army Corps of Engineers  
Attn: Michael G. Montone  
1776 Niagra St.  
Buffalo, NY 14207-3199

From: Dr. Keiper

Re: Sheldon Marsh

Dear Mr. Montone,

I write in objection to the channeling activities Barnes Nursery has been conducting at Sheldon Marsh State Nature Preserve. Digging channels around our precious wetland resources can, and will, have significant negative impacts on the water quality, biodiversity, and economy of the Great Lakes area. Our existing wetlands require all the conservation efforts they can get, and allowing Barnes Nursery to dig a 500' channel into the Preserve will set a bad example for the Great Lakes community.

I see the activities of Barnes Nursery profiting a single company, whereas the Great Lakes ecosystem and the surrounding human populations who benefit from the resources provided by a pristine wetlands (i.e., recreation, aesthetics, and water quality) will suffer. I urge you to reject these channeling activities proposed by Barnes Nursery.

If you have questions, or require further information, please contact me.  
Thank you for your attention to this matter.

Sincerely,

Joe

Joe B. Keiper, Ph.D.  
Curator of Invertebrate Zoology  
Cleveland Museum of Natural History  
1 Wade Oval Dr.  
Cleveland, OH 44106

jkeiper@cmnh.org  
216-231-4600, x 315  
216-231-5919 (fax)  
<http://www.cmnh.org/research/invertzoo/>

# Black Swamp Bird Observatory

P.O. Box 228 • Oak Harbor, Ohio 43449

Laura Fay  
Ohio EPA, Division of Surface Water  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dear Ms. Fay;

This letter is a written response requesting denial of the Barnes Nursery 401 Permit Application for dredging in the wetland complex including Sheldon Marsh Nature Preserve. It is the position of the Black Swamp Bird Observatory that the present dredging that has taken place has been in violation of State and Federal guidelines, has gone beyond the original intent of the NWP27 issued, does not meet the criteria under "important public need", has adequate alternatives available to the applicant, and could result in impacts to wildlife and wildlife habitat involving State and Federal listed species.

The Black Swamp Bird Observatory has been involved in avian research in the Lake Erie Marsh Region for the past decade. Data has been collected on migrational use of a diverse group of birds in the region. Monitoring shorebird migration has resulted in the marsh region, including [REDACTED] Preserve, being designated as a Regional Shorebird Reserve Network [REDACTED] two sites in the entire Midwest and Great Lakes region. Sheldon Marsh consistently ranks as one of the top four sites in the region for shorebird use. This use is a result of the mudflats that are created by the varying lake levels and seiches. Sheldon Marsh is possibly the largest remaining lake effect marsh with vegetation, left in the western basin. This vegetation provides the organic materials required by the invertebrates which make up the primary food source of migrating shorebirds, passerines and waterfowl and the building blocks of the food web of wading birds, waterbirds, and raptors. Mudflats are an integral component of this wetland complex and of extreme importance during low water regimes to the avian resource.

Additional avian use has been documented in songbirds, wading birds, waterbirds, and birds of prey on the site. Specific documentation has been completed for piping plover, a federally listed species, as critical habitat along the barrier beach. Any potential increase in human activity that could result from personnel watercraft within the marsh and canal would be detrimental to any potential recovery of this species at this location. The common tern, a state endangered species and a federal species of concern in the Great Lakes, has one of only two nesting colonies in the state just to the west of the site. The adults and fledglings of this colony utilize the Sheldon Marsh for feeding and loafing. Sheldon's has been looked at as a potential colony site due to its expanse of open wetlands. The addition of the overburden left by the construction of the canal provides increased denning locations for nest predators such as raccoons and mink within the interior of the wetland that would preclude the area as a potential restoration site for this endangered species. The study area is also an important feeding area for a nesting pair of bald eagles and their offspring as well as additional non-breeding eagles. In personal conversation

with representatives of the Army Corp. of Engineers, we have been led to believe that the question was not the denial of this permit but when should restoration of the site be conducted to not interfere with the activities of the bald eagle. It would be interesting to know when this position was reversed and under what pressures it occurred.

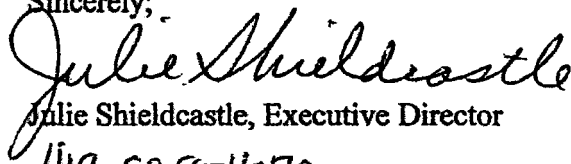
There is legitimate questions raised by how much effect there would be on the wetland from this canal. In addition to the above reasons concerning direct wildlife population effects, it has been recognized by the Beneficial Use Impairments of Wildlife and Wildlife Habitat chapter of the Lake Erie LaMP that one of the greatest impairments to wetland complexes along the lake is backstopping by dikes protecting human interest upland from the wetlands. This canal and associated overburden has the ability to increase water loss to the wetland, reduce water runoff from the adjacent uplands, and isolate remnant wetlands located south of the canal from the rest of the complex. Soil disturbance and elevation from dredging would result in an increase in exotic plant growth detrimental to the health of the wetland complex.

Sociological and economic benefits from a healthy Sheldon Marsh must also be taken into consideration. Ecotourism in the form of bird watching is one of the fastest growing sources of income to regional businesses. A study conducted on the Magee Marsh Wildlife Area and Ottawa National Wildlife Refuge in 1993, estimated a 5.4 million dollar value to the regional economy annually from bird watching just those two areas and the recreational use has grown since that time.

There is an adequate alternative available to the applicant in the form of laying a pipeline to a viable water source. Pipelines meet the water needs of municipalities in the region as well as a nuclear power plant. Canals require consistent maintenance through cleaning, resulting in additional disturbance to wildlife and their habitats. A pipeline would result in a temporary disturbance that could be timed to coincide with a safe period of construction with the eagle population and would provide the nursery with an adequate water source well into the future.

We appreciate the opportunity to comment on this application. From avian research we have conducted, there would be considerable concern of long term detrimental effects to the habitat of this wetland complex and its wildlife benefits. Again, we ask that you deny this application. We would be happy to discuss further, any scientific information on birds and their habitat needs and uses, that we could provide that would assist you in your decision making process.

Sincerely;

  
Julie Shieldcastle, Executive Director  
419-898-4070

John Girard  
1371- B Cleveland Road West  
Huron, Ohio 44839

December 6, 2001

Ohio EPA Division of Surface Water  
Attention: Permits Processing Unit  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dear Ohio EPA Official:

I am writing to express my feelings about the Clean Water Act Section 401 certification application submitted by Barnes Nursery seeking an "after-the-fact" certification for work that has changed the hydrology of the property owned by Barnes Nursery, and those properties immediately adjacent to it. One of the properties immediately adjacent to Barnes Nursery is the Sheldon Marsh State Nature Preserve. Sheldon Marsh is a Category III wetlands as determined by the Ohio Environmental Protection Agency (EPA) and would be needlessly exposed to harm by the approval of the Barnes application. Barnes did not consult the State of Ohio prior to doing the dredging and filling that changed the hydrology of Sheldon Marsh, and should not be allowed to benefit from proceeding without the required State Agency authorizations.

The Barnes application states that the primary objective of the project is to change the hydrology of their property in order to provide irrigation for their business. Barnes Nursery management stated in a tour given to the public in June, that the change in irrigation was caused by a change in the products offered for sale by their company. Barnes Nursery has already had the economic benefit of many months of water drained from Sheldon Marsh. If the application is approved and a permanent change in the hydrology of Barnes Nursery is accomplished, it would surely also permanently change the hydrology of Sheldon Marsh! This is unacceptable!! Any change to the hydrology of Sheldon Marsh could negatively alter the economic benefit of this rare wetland to the entire Firelands region, and therefore potentially shift an economic burden onto the State of Ohio and all its residents in order to economically benefit Barnes Nursery.

Additionally, an artificially imposed change to Sheldon Marsh would be in direct conflict with the goals and objectives of the Lake Erie Protection and Restoration Plan currently being administered by the Ohio Lake Erie Commission. This Plan is one of the most effective examples of an EPA Remedial Action Plan being implemented anywhere in the United States. An artificial change to any part of the Lake Erie watershed should be compared to the Strategic Objectives of this Plan. This specific application, if approved, would result in actions that conflict with four of the TOP TEN Priority Recommendations for Lake Erie.

For these reasons, I respectfully request that the application submitted by Barnes Nursery be denied. I implore you to recommend that the dike already constructed be removed, and the channel already dug be filled. This is the only way to return the hydrology of Sheldon Marsh and the Lake Erie watershed to its original natural condition.

Sincerely,

  
John Girard



**Great Lakes United**  
**Elaine Marsh, Lake Erie Director**  
**2179 Everett Rd.**  
**Peninsula, OH 44264**  
**(330)657-2055; (330) 657-2198 fax**

**Executive Offices:**  
**Buffalo State College, Cassetty Hall**  
**1300 Elmwood Avenue**  
**Buffalo, NY 14222**  
**(716) 886-0142, (716) 886-0303**

01 DEC 20 PM 2:27

Laura Fay  
OhioEPA, Division of Surface Water  
Lazarus Government Center  
P.O. Box 1049  
Columbus, OH 43216-1049

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December 15, 2001

Dear Ms. Fay,

These comments represent the view of Great Lakes United, a coalition of 170 organizations in the United States, Canada, and First Nations dedicated to protecting and restoring the lakes. We appreciate the opportunity to comment on the after-the-fact permit for a 401 certification requested by Barnes Nursery.

We have three recommendations on this permit: deny it, enforce immediate restoration and reprimand the offender

The most obvious reason to deny this permit is Ohio's commitment to Lake Erie and the value of these illegally-dredged wetlands to that great body of water. There is a tremendous amount of literature on wetlands in the western basin of Lake Erie. The ill-effects of wetland loss are a primary theme of all scientific analysis on the topic. And, the critical need to preserve remaining coastal wetland for shoreline protection, native fisheries, bird habitat and ecotourism is always the most urgent recommendation cited. None of the accepted body of knowledge on habitat, economics or water quality suggests that the value of this project is anything but miniscule in comparison with the value of wetlands that it illegally degrades.

In her presentation to the 2000 SOLEC (State of Lakes Ecosystem Conference), Sandra George of Environment Canada, represented the current State of Lake Erie, as defined by a bi-national team from Canada and the US. The findings were that, overall, the ecosystem of Lake Erie is mixed to mixed, deteriorating. According to this study, Lake Erie, as a whole, displays both good and degraded features, but, overall, conditions are deteriorating from an acceptable state. Contrary to unsubstantiated comments made by defenders of this permit, the Lake Erie ecosystem is NOT IMPROVING. The summary of this report listed the statement "Habitat Loss and Alteration is a major Concern" as the second in a list of six major concerns for the declining situation.

The findings of the 2000 SOLEC were published in *State of the Lakes 2001*. A summary of all indicators is attached; indicators specific to coastal wetlands follow.

Indicator Name	Indicator #	SOLEC Category	Assessment
Amphibian Diversity & Abundance	4504	Coastal Wetlands	Mixed, Deteriorating
Wetland Dependent Bird Diveristy and Abundance	4507	Coastal Wetlands	Mixed, Deteriorating
Coastal Wetlands Area by Type	4510	Coastal Wetlands	Mixed, Deteriorating
Effect of Water Level Fluctuations	4861	Coastal Welands	Mixed, Deteriorating

Our review of the permit shows a complete lack of justification based on Ohio's antidegradation policies. The applicant identified the current condition of the illegally-dredged channel as the *non degrading alternative*. This description is a statement of either the applicant's complete ignorance of water quality standards or complete disdain for the process. In either case, the antidegradation requirements for consideration of alternatives are not fulfilled.

Antidegradation is a policy based on allowing degradation of water quality only if designated uses can be maintained and if the proposed project has significant and important social, economic justification or fulfills a public need. We observe the following related to the basic tenants of antidegradation:

- Water quality benefits will be lost to state-owned, regionally-rare and significant wetlands. At the public hearing on December 10, 2001, there was sufficient evidence and testimony present by state and private experts that the condition created by the illegally dredged channel would impact the Category III wetlands of Sheldon Marsh and that state-owned habitat would be lost to native fishes, amphibians and other wildlife.
- No public need is identified.
- No social or economic justification is noted.

The mitigation plan, or lack thereof, does not meet OhioEPA standards. However, it is our contention that the functions of these wetlands cannot be mitigated. Impact on Sheldon Marsh caused by their loss would be irreversible.

Of all of the documents that we reviewed in this permit, the most outrageous was the suggestion that the applicant was investigating the use public dollars to offset the cost of mitigation!

This applicant deserves no special consideration of any kind. The illegal project was initiated wittingly; the after-the-fact permit is incomplete and shows a complete lack of understanding of the rules and regulations of the state; the deleterious effects of the illegal action are already apparent, even to the untutored eye; and there is a host of scientific information which clearly identifies project as a very bad idea.

We hope that OhioEPA will give Lake Erie an after-the-fact Christmas present. We urge you to deny the permit, enforce immediate restoration and apply the full extent of legal reprimand.

Sincerely,



Elaine Marsh  
Lake Erie Director  
Great Lakes United

Attachments:

Executive Summary of the *State of the Lakes 2001*, 1 page

*State of the Lakes 2001* Indicators, 1 page

Wetland Loss: Fact and Critical Issues, Compiled by Great Lakes United page

CC: Sam Speck, Director of ODNR



# Executive Summary

This State of the Great Lakes (2001) report is the fourth biennial report issued by the governments of Canada and the United States of America (the Parties to the Great Lakes Water Quality Agreement), pursuant to reporting requirements of the Agreement. Previous reports presented information on the state of the Lakes based on ad hoc indicators suggested by scientific experts involved in the State of the Lakes Ecosystem Conferences (SOLEC). In 1996, those involved in SOLEC saw the need to develop a comprehensive, basin-wide set of indicators that would allow the Parties to report on progress under the Agreement in a comparable and standard format.

Indicators will tell us whether we are meeting the goals of the Great Lakes Water Quality Agreement ("...to restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin Ecosystem"), and provide us with answers to 'simpler' questions such as: Can we drink the water?; Can we eat the fish?; and Can we swim in the water? Indicators help us to measure our progress towards reaching our goals, or, alternatively, how far we have left to go.

This report represents the first in the indicator-based format, giving information on 33 of the 80 indicators being proposed by the Parties. These 33 indicators were selected because data for them were readily available with the individual indicator reports prepared by subject experts.

Not all of the proposed 80 indicators are presently being monitored. This situation represents a challenge to the Parties to ensure that information is available in a timely fashion to allow reporting on progress on all indicators, at a frequency suitable for each indicator. It is essential that monitoring systems be put in place to ensure collection of all essential information applicable to each indicator.

A full description of the indicators is in the *Selection of Indicators for Great Lakes Basin Ecosystem Health, Version 4*.

The Parties cannot provide a detailed quantitative assessment of all aspects of the State of the Lakes based on 33 of 80 indicators. Nevertheless, the Parties make the following overall qualitative assessment:

The status of the chemical, physical, and biological integrity of the waters of the Great Lakes basin ecosystem has been assessed and is considered mixed because:

- Surface waters are still amongst the best sources of drinking water in the world;
- Progress has been made both in cleaning up contaminants and in rehabilitating some fish and wildlife species;
- Invasive species continue as a significant threat to Great Lakes biological communities;
- Atmospheric deposition of contaminants from distant sources outside the basin confound efforts to eliminate these substances;
- Urban sprawl threatens high quality natural areas, rare species, farmland and open space; and
- Development, drainage, and pollution are shrinking coastal wetlands.

The assessments for each of the 33 indicators are on the following page. The section that follows the Executive Summary contains implications for managers. This section was prepared in order to meet one of the SOLEC objectives: "...to strengthen the decision-making and environmental management concerning the Great Lakes."

# STATE OF THE GREAT LAKES 2001

Walleye	9
Contaminants in Colonial Nesting Waterbirds	115
Drinking Water Quality	4175

117  
8135  
7006

Nearshore & Open Waters

Mixed, improving  
Mixed, improving  
Mixed, improving

## Chemical Contaminants in Edible Fish Tissue

Preyfish Populations

Spawning-Phase Sea Lamprey Abundance

Lake Trout

Phosphorus Concentrations & Loadings

Toxic Chemical Concentrations  
in Offshore Waters

Contaminants in Snapping Turtle Eggs

18

Mixed, improving

Mixed

Mixed

Mixed

Native Unionid Mussels	68	Nearshore & Open Waters	Mixed, deteriorating
Scud ( <i>Diporeia hoyi</i> )	93	Nearshore & Open Waters	Mixed, deteriorating
Amphibian Diversity & Abundance	4504	Coastal Wetlands	Mixed, deteriorating
Wetland-dependent Bird Diversity & Abundance	4507	Coastal Wetlands	Mixed, deteriorating
Coastal Wetland Area by Type	4510	Coastal Wetlands	Mixed, deteriorating
Effect of Water Level Fluctuations	4861	Coastal Wetlands	Mixed, deteriorating
Extent of Hardened Shoreline	8131	Nearshore Terrestrial	Mixed, deteriorating
DELT in Nearshore Fish	101	Nearshore & Open Waters	Poor (Lake Erie)
Exotic Species Introduced into the Great Lakes (aquatic only)	9002	Unbounded	Poor
Population Monitoring & Contaminants Affecting the American Otter	8147	Nearshore Terrestrial	Insufficient data to assess indicator
Phytoplankton Populations	109	Nearshore & Open Waters	Unable to assess status until targets are determined
Zooplankton Populations	116	Nearshore & Open Waters	Unable to assess status until targets are determined
Urban Density	7000	Land Use	Unable to assess status until targets are determined
Mass Transportation	7012	Land Use	Unable to assess status until targets are determined
Water Use	7056	Societal	Unable to assess status until targets are determined

# **Wetland Loss: Facts and Critical Issues**

## **Compiled by Great Lakes United**

In the last 50 years, more than *two-thirds* of Great Lakes coastal wetlands have been lost and many that remain have been degraded to the point where immediate intervention is required (*Strategic Plan for Wetlands of the Great Lakes Basin, 1993*).

Great Lakes wetland losses per state (*Mitch and Gossilink, 1994*)

- Minnesota has lost over 42% of its original wetlands
- Wisconsin has lost over 50% (5 million acres) of its original wetlands – over 90% in southeastern Wisconsin.
- Illinois has lost 85% of its coastal wetlands, Indiana, 88%.
- Over 55% of Michigan's original wetlands have been drained or filled.
- Ohio has lost 87% of its original coastal wetlands. Overall, Ohio wetlands decreased from 5 million acres to about 500,000 now. Ohio ranks second in the nation behind California in wetland acres lost (*Bouchard, 2000*).
- New York has lost over 60% of its original basin wetlands.

Coastal wetland drainage has occurred primarily in the lower lakes basin. Between 1967 and 1982, 85% of southern Ontario wetland losses were due to agriculture, mostly involving drainage (*Great Lakes Conservation Action Plan, 2000*).

83% of the original 9,637 acres of western Lake Ontario marshland has been lost, largely due to filling for urban and industrial uses. Some sections have lost 100% of coastal wetlands through filling, dredging and channeling (*Great Lakes Aquatic Habitat News, May-June 2000*).

In the United States as a whole, wetlands continue to be lost at an alarming rate – 400,000 to 500,000 acres per year or 52 acres lost every hour (*Hathaway, 1999*).

**Five of the most crucial Great Lakes issues that require resolution are** (*Great Lakes Wetlands Conservation Action Plan, 1997*):

Loss of wetland area through physical disturbance such as infilling for development and draining for agricultural purposes.

Degradation of wetland quality and function through pollution and water level regulation.

Lack of a generally shared vision for Great Lakes protection, rehabilitation, and creation.

Insufficient cooperation and coordination among levels of government.

Ineffective wetland protection through a combination of inadequate knowledge, inadequate legislation, policies, and guidelines, limited incentives for private ownership, and the lack of public commitment for the need to maintain wetlands.

Subj: **FW: Comments of Barnes Nursery Project**  
Date: 12/17/2001 5:22:25 PM Eastern Standard Time  
From: *glanders@stratos.net* (Glenn Landers)  
To: *Pskherarts1@aol.com*

FYI

-----Original Message-----

**From:** Glenn Landers [mailto:glanders@stratos.net]  
**Sent:** Monday, December 17, 2001 4:35 PM  
**To:** Laura.Fay@epa.state.oh.us  
**Subject:** Comments of Barnes Nursery Project

Laura Fay  
Ohio EPA Division of Surface Water  
Attn: Permits Processing Unit  
P.O. Box 1049  
Columbus, OH 43216-1049

Dear Ms. Fay,

I am writing on behalf of the Sierra Club's Great Lakes Program Cleveland Field Office to ask that you deny the 401 Water Quality Certification to the Barnes Nursery project adjacent to Sheldon Marsh State Nature Preserve.

We believe that the project does not serve any important public need and therefore it would not justify the destruction of category 3 wetlands, an opinion that we believe is supported by the record for this project as compiled by the Army Corp of Engineers in Buffalo. Despite heroic attempts by the Corp to obfuscate the true purpose of this project, the documents we have reviewed indicate to us that the purpose of the project is to provide irrigation water to the Barnes Nursery, and not to provide nesting habitat or other public benefit. Nor, we believe, will any nesting habitat that is provided mean any substantive public benefit when weighed against the loss of pristine, or if not pristine because of the illegal activity that has already occurred there, at least restorable, high quality wetlands .

We are also concerned because issuance of a 401 Water Certification for this project will lead to issuance of a pre-approved 404 permit from the Army Corp that we believe is highly questionable and which should be investigated, along with the people responsible for its development. In our previous comments submitted to the Corp on the 404 permit, we discussed the improbable sequence of "mistakes" that led to the issuance of the first version of a permit for this project, the disappearance of an important primary document, the memo later added to the file by Corp employee Gary Buck in which he seems to have forgotten that he called the U.S. Fish and Wildlife Service to have a copy of the document destroyed, and the threatening tone of a email in project file where citizens opposed to the project might learn that the Corp could be collecting their complaints so some unidentified party might sue them. (I will paste in a copy of those comments below, which I hand delivered to the Corp at the public hearing on June 12, 2001).

The Corp has basically ignored those comments. The response to comments found in the Corp's Environmental Assessment do not directly refer to our concerns, and we can only guess that the Corp

Monday, December 17, 2001 America Online: Pskherarts1

considered our comments to be "general comments" that "do not address details of the applicant's current request for authorization that are within my purview." Such a claim however is patently false. Mr. Montone, when faced with reasonable evidence of wrong-doing, not only has the authority but the obligation to pursue the issue, especially when it appears that information that the Corp is relying on for decision making has, for at least part of the process, been manipulated by a Corp employee.

We believe that the reasonable questions we have raised regarding the permitting process must be answered prior to the issuance of a permit in order to ensure the integrity of the permitting system and to ensure all state and federal requirements are unquestionably being met. Further, even if Ohio EPA does not normally concern itself with decisions made by the Corp, we believe there is sufficient reason for Ohio EPA to request a full investigation by appropriate authorities before issuing a 401 certification. Without such an investigation, Ohio EPA simple cannot be assured that a 401 certification will not lead to issuance of a bad 404 permit for this project.

Thank you for this opportunity to provide comment. If you have any questions regarding our comments, please feel free to contact me by mail or by phone.

Sincerely,

Glenn Landers  
Field Organizer  
Sierra Club Great Lakes Program  
2460 Fairmount Blvd., Suite C  
Cleveland Heights, Ohio 44106  
216-791-9110

---

Army Corp Hearing on Barnes Nursery Project  
June 12, 2001

The history of this project has been truly astounding. The Corp's file on this project indicates that a Corp employee, Gary Buck, made an unlikely series of mistakes that lead to the initial issuance of a bad permit under Nationwide Permit 27.

For some reason, Mr. Buck approved this application even though the project was to take place in a Category 3 wetland, for which Nationwide Permit 27 does not apply. He approved the permit despite that fact that the type of project that was listed in the application is not eligible for Nationwide Permit 27, even if the area was not a Category 3 wetland. He approved the project even though it did not meet the requirements for consistency with the Ohio Coastal Management Plan. And, he approved the permit despite the opinion later expressed by Lisa Morris of Ohio EPA that "The details of the actual project contained in the June 20, 2000 authorization make it clear that the primary purpose of the project was provision of water, and/or the preliminary steps in creating a boat channel for future development of this stretch of shoreline".

There are other problems with Mr. Buck's handling of this permit. There apparently had been a pre-application meeting that Mr. Buck arranged, which included representatives from other government agencies. But the documentation from that meeting seems to have disappeared. Mr. Buck, according to a memo he later placed in the Corps file, is not sure what happened to these documents, if they ever

Monday, December 17, 2001 America Online: Pskherarts1

existed. But according an employee of the U.S. Fish and Wildlife Service, Mr. Buck himself made a phone call asking that a document from the meeting be destroyed. This is known from an email that was obtained from Fish and Wildlife through the Freedom of Information Act. [See attachment]

Mr. Buck also seems to have taken some steps to ensure that public criticism of the project might be limited. The Army Corp file on the project contains an email that suggests complaints made by a certain citizen should be tracked by the Corp, as that person might be subject later to some legal action. This email, as part of the public record which no doubt has been viewed by many of the people at this hearing, is likely to have had a chilling effect on the public debate of this project.

And I want to note here that I found no response to Mr. Buck's email in the file. The recipients did not write back to say that citizen complaints should be investigated and not collected for some punitive actions. They didn't write back to say that it is not the Corp's job to create dossiers on concerned citizens. The silence here of Mr. Buck's colleagues is damning.

At any rate, what I see from the Army Corps file is this: an Army Corp employee with years of experience make a series of mistakes that, taken together, are pretty hard to explain. He lost, possibly even destroyed or had destroyed, a key document. Further, he planted the suggestion in the Army Corp's own file that complaining citizens might be subject to legal action.

Could this be an attempt to manipulate the permitting system and force through an inappropriate permit? I don't know. But, I do believe it's worth investigating.

I also believe that it would make sense to put the current permitting action on hold and order a full restoration in the meantime. I urge the Army Corp to take these actions immediately

Glenn Landers  
Sierra Club Great Lakes Program  
2460 Fairmount Blvd., Suite C  
Cleveland Heights, Ohio 44106

Ph: 216-791-9110

----- Headers -----

Return-Path: <glanders@stratos.net>

Received: from rly-za03.mx.aol.com (rly-za03.mail.aol.com [172.31.36.99]) by air-za01.mail.aol.com (v82.22) with ESMTP id MAILINZA19-1217172225; Mon, 17 Dec 2001 17:22:25 -0500

Received: from mail2.mx.voyager.net (mail2.mx.voyager.net [216.93.66.201]) by rly-za03.mx.aol.com (v83.18) with ESMTP id MAILRELAYINZA31-1217172137; Mon, 17 Dec 2001 17:21:37 -0500

Received: from glanders (tnt5-237.focal-chi.corecomm.net [209.81.205.237] (may be forged)) by mail2.mx.voyager.net (8.11.6/8.10.2) with SMTP id fBHMO3o04744

for <Pskherarts1@aol.com>; Mon, 17 Dec 2001 17:24:03 -0500 (EST)

From: "Glenn Landers" <glanders@stratos.net>

To: <Pskherarts1@aol.com>

Subject: FW: Comments of Barnes Nursery Project

Date: Mon, 17 Dec 2001 17:23:46 -0500

Monday, December 17, 2001 America Online: Pskherarts1



Subj:	Fwd: DIA Permit No. 200002170(0) Barnes Nursery
Date:	6/4/2001 11:55:33 AM Eastern Daylight Time
From:	PDwight551
To:	Pskherarts1, seedbed@accnorwalk.com, dsheldonjr@hotmail.com, SY1154

## Forwarded Message:

<p>Re: DIA Permit No. 200002170(0) Barnes Nursery 6/4/2001 1:16:21 AM Eastern Daylight Time</p>
---

From: nw2v@localnet.com (Don Longacre)  
To: michael.g.montone@usace.army.mil

Dear Mike:

My purpose in writing is to urge the USACE not to grant the after-the-fact IP sought by Mr. Robert Barnes of Barnes Nurseries in Huron, Ohio. As a native of the area and familiar with east Sandusky Bay, I believe it to be of most grave importance that the wetland known as Sheldon Marsh be left intact as one of the few remaining class III wetlands extant along the Ohio shoreline. Further, the Corps should insist Mr. Barnes do remedial work to return Sheldon Marsh to its pre-NWP 27 condition.

It is regrettable that Mr. Barnes can not devise a less formidable irrigation system not requiring a fifty foot wide navigable channel to serve this purpose. In his permit applications Mr. Barnes points out his nursery has been in business for sixty years. Apparently irrigation needs during that time were met with alternate methods. Deep water habitat is not necessarily integral with the definition of a wetland. I cite, for example, Bergen Swamp in Genesee County, NY, a well known wetland containing rare avifauna including orchids. During my career in the Division of Fisheries and Wildlife in New York State DEC I have seen northern pike, pickerel, bass, carp and long nose gar spawning in water less than a foot deep. Five feet of water is not a habitat requirement for breeding fish species common to a wetland such as Sheldon Marsh. It is cause, therefore, that USACE should consider the deep water channel in Mr. Barnes' project to be ecologically frivolous and unnecessary when weighed against public outcry and abridgement of section 404 of the Clean Water Act.

Further, it must be seen that Sheldon Marsh in its present classification has extrinsic value not only to the current generation but for those yet to come into the public commonwealth. Its fragility is in the trust of USACE. Mr. Barnes proposes a project to augment his water supply which contains features that at best are less than beneficial to the Sheldon Marsh wetland and in the main, serve only Mr. Barnes.

I respectfully urge the Commander to make a fair and reasonable decision on behalf of the Public interest.

Thank you for the opportunity to comment.

Donald Longacre <nw2v@localnet.com>  
NYS DEC (ret)

7941 North Road  
LeRoy, NY 14482  
(716) 768 4891

----- Headers -----

Monday, June 04, 2001 America Online: Pskherarts1

June 7, 2001

US Army Corps of Engineers  
1776 Niagara St.  
Buffalo, NY 14207-3199

ATTN: Michael Montone

Gentlemen:

The Sugar Creek Protection Society was formed in 1973 to preserve Sugar Creek, a natural stream that is a tributary of the Portage River, from channelization. Members of the society working as volunteers at no cost to the state, community, or landowners, have maintained, protected and cared for the creek in its natural state as a free flowing watercourse for the past 28 years. We know the value of natural ecosystems and have worked to preserve them.

Individual members also have come to know the remaining natural areas along the Ohio north coast. There is so little undeveloped land left and the pressure of commercial interests continues to eat away at these remnants of the vast wetland region that was the Lake Erie shore. Sheldon Marsh is the most notable – most valuable - of these undeveloped wild areas. We have gone to Sheldon Marsh for migrating songbirds in May, wetland plants in late July, waterfowl heading south for the winter in November. The marsh has such varied ecosystems that it provides shelter and food for a much larger number of individuals and species than its small size would indicate. That most of the barrier beach has been set aside for the endangered piping plover's recovery is testament to the value of this preserve. In addition, Sheldon Marsh is an important nursery for the Lake Erie fishery. This State Nature Preserve should not be degraded.

The Corps is a last line of defense for wildlife in Ohio, a state that has squandered 95% of its natural wetlands and seems to have no way to hold back the pace of development. Since the Corps was made responsible for preserving the waters of the U.S., many destructive and wasteful projects have been derailed due to the Corps' action. Please deny the permit application by Robert Barnes to dredge in Sheldon Marsh for irrigation water that will benefit only his interests and require him to restore the channel which he has already constructed back to its original condition.

Sincerely,

Justine Magsig, Publicity Chair  
Sugar Creek Protection Society

Ohio EPA Division of Surface Water  
Attention: Permits Processing Unit  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dear Ohio EPA,

Thanks for the opportunity to comment on the 401 Barns Nursery request. Ohio EPA should deny this request and require restoration of the wetlands adjacent to Sheldon's marsh.

This permit request fails on many accounts. Barns can obtain water from many sources including restoring their present retaining ponds and purchasing water. Their use of water is quite wasteful in that they water expanses of gravel and payment. Water applied using plant-dripping systems would be more efficient. There is no public good to come of the proposed project. Barns has demonstrated its disregard of the law and the environment. They misrepresented their initial application and dredged a channel large enough to allow marine traffic. Is their intent not clear? The dredged area is a threat to adjacent marshland and has no aesthetic appeal. Barns allows unregulated hunting on their land for otherwise regulated deer and geese. Are these people stewards of Ohio's water resources?

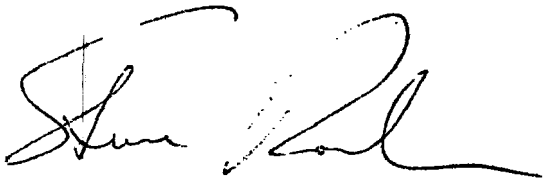
The impact of the purposed dredging is for the most part unexplored. My concerns include the health of the estuary and filter effect, the impact on fisheries, the impact on waterfowl and birds of prey (Bald Eagles nest and feed near by). The drainage of 350,000 gallons of water could easily reverse normal flow of water. Sand bars and mud flats could shift and erode ultimately threatening the barrier sand bar in existence. Flow of water in the adjacent East Bay and silting could also occur affecting another large wetland. Sheldon Marsh has already been affected by piling dredge spoils on the property line it shares. This project will threaten Ohio's water resources and the total acreage of affect will be sizeable.

The proposed mitigation is laughable. It does not generate new wetlands and the conservation easement has no value to Sheldon's marsh. It seems to me a reasonable mitigation plan would create several hundred acres of new high

quality wetlands in the area, provide habitat for bald eagles, and provide for the protection of the barrier islands.

Perhaps the best argument for denying this request requires an investment of time alone. Simply stand along the old road to Cedar Point and observe the marshlands towards Sheldon's marsh. You will see animal tracts, pools of water, birds of prey and uninterrupted beauty except for the dike already illegally dredged. Imagine the dike going through the middle of this area with its earthen banks. Imagine the Jet Ski's traversing the waterway. Imagine the equipment to maintain the waterways destroying more marsh and adding to earthen dikes and enlarging and deepening the channels. Imagine erosion affecting the barrier island. Your decision will be clear, DENY.

Thanks,

A handwritten signature in black ink, appearing to read 'Steven Roshon', with a stylized, flowing script.

Steven G Roshon, MD  
1137 Cedar Point Chaussee  
Sandusky, Ohio 44870

**Lake Erie Wing Watch  
Managing Ecotourism along Ohio's North Coast**

*Fact Sheet*

**Who is Lake Erie Wing Watch?**

Lake Erie Wing Watch formed in 1994 as a voluntary cooperative marketing group to encourage and promote bird watching in Erie, Ottawa and Lorain counties. Participants include the following:

- Back to the Wild Wildlife Rehabilitation and Nature Center
- Black River Audubon Society
- Black Swamp Bird Observatory
- Erie MetroParks
- Firelands Audubon Society
- Huron River Greenway Coalition
- Kelleys Island Audubon Society
- Lorain County Metro Parks
- Lorain County Visitors Bureau
- Ohio Division Natural Areas & Preserves,  
    Old Woman Creek State Nature Preserve and Sheldon Marsh State Nature Preserve
- Ohio Division of Wildlife, Magee Marsh Wildlife Area
- Ottawa County Visitors Bureau
- Ottawa National Wildlife Refuge
- Sandusky/Erie County Visitors & Convention Bureau
- USDA Wildlife Research Center

Areas managed by Lake Erie Wing Watch partners encompass 18,000 acres with 45 miles of birding trails.

**Who are our birders?**

Birders tend to be middle aged (average in mid-40s), well educated (72% have attended some college education), and had incomes well above the national family average (41% in excess of \$50,000 a year.) Men accounted for exactly one-half of the visitors.

**How much do birders bring to the local economy?**

According to a 1994 study of birders at Magee Marsh Wildlife Area and Ottawa National Wildlife Refuge, birders averaged 2.5 days in the area. The average amount spent on their entire trips to and from the Black Swamp Bird Observatory area averaged about \$166 per person and totaled about \$32 million. The economic impact on the local communities was estimated to be \$5.6 million in 1993, with \$2.55 million spent on lodging, \$1.1 million spent on meals, \$.47 million for gas and \$1.52 million for other purchases.

During the 1997 Midwest Birding Symposium in Lakeside, Ohio, 1,000 participants stayed an average of 3.5 days in the area and contributed approximately \$363,000. Greatest expenses included lodging, dining, ferryboat tickets, gas and gift purchases. Participants also spent an additional \$142.62 per person on items purchased at the birding marketplace.

## LAKE ERIE WING WATCH

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Dec. 4, 2001

Laura Fay  
EPA

Dear Ms. Fay:

Please restore Sheldon Marsh wetlands to its pre-destruction condition. This wildlife area is an important habitat to not only the biological species which depend on its integrity, but to local businesses as well. Destroying any part of Sheldon Marsh will impact local businesses who benefit from the people who visit the marsh each year.

Sheldon Marsh is one of the most important habitats which comprise the Lake Erie Wing Watch areas. These natural habitats are attractive to folks around the country, as well as Canada, for their unique and spectacular sights, especially during migration periods. Birdwatchers to nearby Magee Marsh Wildlife Area and the Ottawa National Wildlife Refuge contribute in excess of \$5.6 million to the local economy through expenditures on hotels, meals, gasoline purchases, gift items, and other purchases. Although a study has not been conducted specifically on Sheldon Marsh, the economic impact would be comparable, as Sheldon Marsh is promoted right alongside Magee Marsh and the Ottawa refuge.

Our efforts to promote our natural areas is getting ready to receive a boost, as we have just received monies from the Lake Erie Protection Fund implement a comprehensive nature-based tourism plan for Lake Erie. Sheldon Marsh is an integral player in our ability to attract visitors on a year-round basis because of its natural resources.

Despite common belief, one does not have to develop a wildlife area in order to create an economic impact. Sheldon Marsh is a prime example of how an area left in its natural state can have a longstanding economic benefit to a region.

Sincerely,

Melinda Huntley  
Executive Director  
Ottawa County Visitors Bureau  
109 Madison St.  
Port Clinton, OH 43452



**From:** <MichaelRWrobel@aol.com>  
**To:** <Laura.Fay@epa.state.oh.us>, <joseph.westphal@hqda.army.mil>, <gorski.wayne@epamail.epa.gov>, <ric.queen@epa.state.oh.us>, <barb.buzard@dnr.state.oh.us>, <paulgillmor@mail.house.gov>, <webmaster@das.state.oh.us>, <sd13@mailr.sen.state.oh.us>  
**Date:** 12/16/01 7:31PM  
**Subject:** Sheldon Marsh & Barnes Nursery Dike Dredging permit.

I am writing to all of you concerning the recent Dike Dredging for the Barnes Nursery located adjacent to the Sheldon Marsh nature preserve in Sandusky County Ohio.

It is primarily directed at Laura Fay of the Ohio EPA who is taking action on this issue in terms of soliciting public opinion on the issue.

According to the information I have gathered from the Ohio Birder Listserver, the action of Barnes Nursery dredging a channel on thier property adjacent to a State Nature Preserve was done without obtaining the proper permits before hand. While it is Laura Fay's action to deal directly with the Barnes Nursery Dredging Issue, I believe it is within the rest of your concerns to deal with the broader issue concerning public versus private land use policy as it relates to obtaining permits prior to dredging near sensitive ecological areas. To this end, I would appreciate your attention to this matter.

My personal judgement is that the permit should be denied for the following reasons:

- 1) My participation as a volunteer with a scientific bird survey with Cornell University has shown me the need to preserve sensitive areas such as Sheldon's Marsh.
- 2) Independent informal birding in Northeast and Northwest Ohio and Europe have shown me the importance of acting now to protect our nature preserves.
- 3) Nature preserves have a bearing on attracting high technology workers to Ohio.

Details behind these conclusions are as follows:

Concerning 1)

I am an amatuer birder that participates as a volunteer in the Cornell University Birds in a Forested Landscape project. Although the environment is differant at Sheldon Marsh (Marsh vs Forest) I believe that some of the same concepts I learned as part of the BFL study apply to Sheldon as well. In the BFL Study we are trying to determine the impact nationwide of the impact of the size of Forest Patches to the types of birds that can breed and thrive in these areas of Forest. Certain bird species such as the ones I survey Yellow Bellied Sapsuckers, Blackburnian Warblers, Cerrulian Warblers, and Hooded Warblers; require large tracts of unabstructed forest in order to breed and thrive. These facts are being established through the BFL survey and I am sure can be made profesionally presented to you by someone at the Cornell Laboratory of Ornithology. I am sure that a similar study conducted on marsh ecosystems would illustrate similar results for the birds that live and breed in Sheldon's Marsh. I refer you to such reasearch.

My particular volunteer survey area is the Lake County Metroparks Indian

Point and Painesfalls parks. These are County owned lands. As I stated before, I am a private citizen volunteering to do this survey. My site coordinator is Jennifer McCanlis who is a wildlife professional with the Lake County, Ohio, Metroparks.

Concerning 2)

In addition to my participation with the BFL study, I have personally been involved in birdwatching since 1997. Since 1999, I have kept a observers notebook of the various birds that I have positively identified at various locations primarely in Northeastern Ohio. As part of the Lake Metroparks activities, I have also made excursions to the Sandusky bay area to bird watch. As a beginning to intermediate birder, I have been able to get a basic idea as to the variety and quantities of types of birds seen in the various parts of Ohio. As far as the types and varieties of waterfowl that can be observed, the Sandusky Bay area including Sheldon's marsh provide the greatest variety.

I have also been fortunate through my work to have an ability to work overseas in Malmo Sweden for six months during the summer and fall of 2000. Malmo is located in the Southern part of Sweden, right across the Oresund sound from Copenhagen, Denmark. During this extended overseas trip, I took the opportunity to bird not only in Sweden, but also in Denmark, Germany, the Netherlands, and Southern England. One of the favorite birding spots is the Falsterbro nature preserve at the southern end of Sweden. Its importance ecologically is that it is the southernmost spot of land in Sweden before the migrating birds have to take fly over the north sea to the main land mass of Europe. For much of the same reasons Sheldon's Marsh provides an essential migration stopover point.

Of my six months experience birding in Northern Europe, I have come to realize that Northern Europe has a smaller variety of Bird Species than North America. Northern Europe seems to have quite a few bird species whose population densities can be clasified as Common or Abundant, meaning that In proper habitat the bird is expected in proper season. Northern Europe also has its Uncommon and Rare species, but the words Uncommon and Rare have a more profound and unfortunate stark meaning there as compared to Ohio when talking about bird populations.

From my six months experience birding in Northern Europe as compared to my Experiences here in Ohio, I would have to say that given my intermediate level of birding experience, and only considering my solo excursion into the field in Ohio (I for the most part did solitary excursions in Europe), my success at finding/encountering Uncommon and Rare bird species in Ohio was (to a estimated 10 to 1 magnitude of difference) much better than in Northern Europe.

If you look at the Peterson's Birds of Britain and Europe and compare it againts Peterson's Birds of Eastern United States, you will discover that of the major catogories of birds, take Sparrows for example you will find a few (one two or three) types of birds whose population densities can be classified as Common to Abundant, but only one if any types whose population densities can be classified as Uncommon or Rare.

What this and my birding experience shows is that in Northern Europe most of the rare and uncommon bird species have become exterminated or extinct as a result of it having been heavily urbanized and cultivated by agriculture over the centuries.

Here in North America, we are on the path to creating the same fate for our great diversity of bird species because of our unmanaged land use policies. The Barnes dike dredging is just one example of this. I cannot pretend to understand the impact or non-impact of such a dredging, nor will I take the stand that because I am a birder this dredging will automatically have a negative impact. There are professionals who can ascertain this better than I.

We here in North America have the ability to properly manage our land use for the preservation of wildlife as well as for our own human use. Sheldon Marsh has been dedicated as a nature preserve on its own merits and must be afforded the most sensitive of considerations when it comes to actions to be taken on adjacent private land. As a citizen of this State and Country, this is my vote concerning the issue of public versus private land use policy.

Concerning 3)

Concerning the question about public impact. I think that it is important to consider the broader economic impact that incursions into natural areas such as Sheldon Marsh cost us. My profession is that of a professional software engineer. I work at ABB Inc, in Wickliffe Ohio. A month or two ago, the Cleveland Plaindealer ran a series of articles comparing Cleveland with Kansas City in terms of growth and economic vitality. One of the points raised in these articles was how recreational activities and quality of life play a significant part in attracting high technology workers to a city/region. The ability for High Tech companies to grow and prosper is tied in no small measure to the numbers of highly qualified individuals willing to live and work in the region. It is important for the Northern Ohio/ Cleveland's region's economic future that it present an attractive and livable environment such that young professional high tech workers will find it desirable to live and establish their families here.

The fact that today one can see Bald Eagles while fishing in Sandusky bay is due to the fact that nature preserves such as Sheldon Marsh provide sanctuary to the wildlife ecosystems necessary to host the bird that is symbolic of our nation. This is a fact that I can relay to fellow engineers that I meet in my daily work and travels. The ability to boast of great natural recreational areas such as Sandusky Bay helps to recruit talented high technology workers to this area. Sheldon's Marsh plays no small part in making this a reality.

Sincerely,  
Mike Wrobel

CC: <senator\_voinavich@voinavich.senate.gov>

Ohio EPA Division of Surface Water  
Attn. Permits Processing Unit  
P.O. Box 1049  
Columbus, Ohio 43216-1049

To whom it may concern:

This letter is in reference to the dredging and dike project that Barnes Nursery wants to do at the Sheldon Marsh Nature Preserve.

I am a property owner in that area, matter of fact about six doors down. When I first found out about the project that the Barnes Nursery had planned, and then found out that a dredging permit was issued, I was deeply saddened. Not only is the integrity of the marsh at risk, but that you, a very prominent organization were so buffaloed into thinking that water is the only thing Barnes wants out of this deal. I'm absolutely sure that The Corps of Engineers did not do their best job when they issued the first permit. I'm not really sure if your organization sends out site inspectors or someone capable of assessing what they see or can envision just a little, of what may happen at that site or envision what the future may bring to that site, but in this case I believe that you really need to do a complete site assessment. By the way, thank you so much for stopping the dredging and the destruction to such a beautiful eco system. Total destruction of this beautiful place is what would have followed if, Barnes were permitted to go forth with that project. I would like to at this time express my opinion and a few points that I believe should be looked into if this project should continue.

- 1 Why is this project needed? Mr. Barnes states that they need a water source for irrigation. Is this correct?
  - A The Barnes Nursery already owns land adjoining the marsh. Instead of digging a channel around the marsh why not take and clean up the land that they already have there and put in a pond or a deep well. The land in that area is a prime site for a well since the water table on it cannot be very deep. This well could and probably would be fed underground by Lake Erie since it would be below lake level.
  - B. Another option is to allow him to install a pipe line under the marsh in a direct line using the horizontal/directional boring method, so they would not disturb the fragile eco system above.

2. Another thing to look at, is if this channel is built, who will patrol it, and put a stop before it starts, to people using it as a jet ski access to Lake Erie?
3. What safe guards are in place or are purposed, so that the other participating landowners do not abuse the use of this channel? Since there are more people involved than just Barnes Nursery have they been contacted and questioned as to their intent for the land they own that abuts to the purposed project?
  - A. There are already condos built on the Northeast corner of the marsh, what has been done or purposed to stop or prohibit the construction of homes or condos on the farm land that this South of the purposed channel?
4. Has there been anything said about the other land owners access to this channel, and has restrictions been put on them as to usage and marsh access?
5. Have you or any other firm done a survey of what the effects that the other deep water life would pose on the marsh area? (not only fish but clams, zebra mussels and what ever)
6. Since this area was the home to many Aboriginal Americans have there been any anthropologists called in to examine the area for ruins? (I personally know of an ancient campsite located on the land that abuts to the purposed channel.)

Last but by far not least, is the fact that Barnes Nursery now owns a very large portion of land that abuts to the Sheldon Marsh. This land at one time used to have a natural slope to the marsh. With the arrival of the Barnes Nursery that land has been transposed and transformed into a stump, landscaping, log and junk dump. If you do not believe me look for yourself. Is this property going to be cleaned up?

In a question to you when it rains where does all of the chemicals such as pesticides, fertilizers, herbicides and such, that Barnes Nursery uses on their trees, shrubs, flowers, bushes, etcetera, go? I will bet there has not been much of a survey done on the toxicity of the drainage water into the marsh from the Barnes site by any creditable association such as the EPA. Maybe one should be done.

Back to the dumping policies of Barnes Nursery, for years Barnes have aggressively dumped stuff on their property both North and South of Cleveland Road. There was a spot just south of the railroad tracks just off of Camp road but not quite to Hull road. This area use to be part of the old railroad, but when evacuated became a

wetland and drainage area for surrounding area, I remember seeing many ducks, muskrats and other wildlife living in the underbrush at that site, now it is a thirty-foot high pile of dumped landscaping materials and trash. The area where Barnes Nursery proposes they want to be able to pump the marsh water from is now about half full of landscape materials, stumps, concrete and other building materials. With the way that they abuse the eco system of the land that they now control what do you think will become of a beautiful public park once they are allowed to dig in it? Barnes really stuck it to you guys before; they dug and built a nice large pond on an adjoining farmers land without permission. I guess that issue doesn't matter now does it?

I am also going to guess that the water that they need is not for the trees and foliage on the piece of land that the pump is on since part of it is a dump, but they want it for other parcels of land that they own or rent elsewhere. Now should we have to talk about the transportation of this water to those other sites or maybe we will let you work that one out yourself.

In closing I would like to say that **I oppose** the building of dikes and channels in the marsh, **I opposed** the digging of the channel to deep or even allow shallow water access.

**I truly believe that you and your agency will not be able to control the people and the way that they will use and abuse these channels or dikes if Barnes Nursery is permitted to build them.**

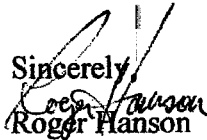
If Barnes needs water so badly the options are: buy it from the county, pump it from their existing pond they have on their property or dig a deep water well or apply to put in a environmentally safe reservoir or hey how about conservation, instead of using overhead sprinklers as they do now but start using a economical soaker system. (building a new reservoir should mean that they would have to clean up the landfill dump they already have North and South of Cleveland Road.)

An added option is to use the oil drilling technique to put in a pipeline from shore to the lake. (**horizontal boring/directional drilling**)

I also suggest that before any further work is done that Barnes submits a full detailed proposed feasibility plan on all of the above recommended water access solutions and the Army Corps of Engineers have the final word as for the most



appropriate venture to be undertaken. I also suggest there be a representative of the Corps on site when and if a project is started to over see that project from start to finish, taking into light, that Barnes Nursery has already tried to get one over on you people. Also with the digging that already has been done what level of subsoil toxins have already made their way into the marsh lands?

Sincerely,  
  
Roger Hanson

813 Colonial Ct.  
Vermilion, Ohio 44089

Patricia S. Krebs  
408 Kiwanis Ave.  
Huron, Ohio, 44839  
December 5, 2001

11 7:43

Q

Ohio EPA Division of Surface Water  
Attn: Permits Processing Unit  
Ms. Laura Fay  
P.O.Box 1049  
Columbus, Ohio 43216-1049

Dear Ms. Fay:

I wish to add my voice to the many who oppose the dike and channels dredged into Sheldon Marsh Wetlands Complex. The OEPA denial of the 401 Water Quality Certification Permit to Barnes Nursery will demonstrate to the citizens of Ohio your commitment to the mandates set before you to protect our environment. This project is on privately owned wetlands but is regulated by Federal and State laws. These laws must not be circumvented but applied full force to protect, enhance, and restore our few remaining coastal wetlands especially Sheldon Marsh, so future generations also have the opportunity to enjoy this public Natural Preserve area as it is.

Having read the Barnes Nursery 401 Application to keep with modifications the dike and channel project in the Sheldon Marsh complex, I have many concerns that lead me to ask for a denial of this Water Quality Permit. It would only aggravate the issue to comment to the vast verbiage, unimportant narrative and irrelevant arguments which cannot change the fact that **the application is for an illegally dredged channel, which created a dike in category III wetlands complex, without proper authorizations, and is oversized from original specifications.** Our laws do not allow discharge of dredge and fill in wetlands and after the fact permission for an improper project in place, only encourages future abuse and misuse of our laws. No re-description, rationalization, or modification to answer criticisms is appropriate. This permit creates a managed marsh, a private experimental microcosm, a foot in the door for future degradation, the possibility of navigable waters, a dam like dike and channels directing water to only one private business interest, and it allows future invasions by other private landowners into this and other protected wetlands. These issues must be met with your denial of the 401 permit so impacts to the value, quality, and integrity of Sheldon Marsh Category III Wetlands complex and ecosystem, do not cause its total degradation and demise plus the irreversible loss of a valuable public natural resource.

The Army Corps with its history of being environmentally unfriendly with the Mississippi River, the Everglades, the Huron Pier [which has locally changed the water flow and sand deposition on our shores and beaches], now wants us to watch the degradation of our State Nature Preserve wetlands complex. The Corps, despite 1200 letters against this project and only several hundred in favor, appear to be granting a conditional permit for this dike and channel project benefiting the economic interests of one private business. The ACE has not provided the wetlands assessment required, or the wetlands delineation and is said to have determined "this is an open water project thus

not in a wetland." In 1992 Gary Buck of ACE acting on a regulatory action of Violation #92-475-604 of section 10 & 404 against Charles Corso [part of the CCCMB NWP27 permit] stated from a site observation that "NWI map indicates the area is an emergent wetland" thus dredge and fill was required to be removed. Why now in the same area has the same ACE field staff described it differently to the applicants benefit? The Corso property [once restored] and the other [CCCMB in Association] property owners, some of whose land this channel and dike traverse, are not on the Individual Permit in question. *How can a permit be granted to, Barnes, when the project is not all on his property? How do the others benefit and how are they regulated?*

It is obvious from our September photos of Sheldon Marsh complex that, this is not open water. The conditions of a fluctuating coastal wetland are constantly changing rejuvenating and creating new wetland habitats. **The mean water level determinations by the applicant were averaged from statistics including only the highest water level years historically recorded, those in the past 50, while they owned the property.** The vegetated low water level years have been in existence for much longer and were present at the beginnings of the Nursery's operation. To state that this project is in open water, including the adjacent 100 acres in the State Nature Preserve is incorrect. The area is and has always been a marsh wetland. The vegetated mudflats come and go with water levels but the seedbeds buried always re-emerge when the conditions are right. The re-growth of this seedbed on the north side of the dike indicates the presence of wetlands plants when the original construction occurred. The emergent vegetation on the south side of the dike also indicates a wetland and regrowth from an existing seedbed of hydrophytic wetland plants. From observing the parade of huge Barnes trucks, in July 2000 during construction, who knows where the dike fill material originated, or why it still is barren.

The withdrawal of 350,000 to 600,00 gal of water daily for irrigation did not seem a problem in high water level times. The impacts were not significant and a dike and channels were not needed. Now in more historically normal lower water level times the impacts to water quality are evident. **The applicant's proposal to direct water to only his part of the marsh depletes the equal distributions to the entire complex, thus starving other areas.** The dike impedes the water flow lake ward and landward and collects ground water in the deeper channel. **Upland sheet flow and run off have been redirected to the channels and cannot feed the marsh or the lake levels.** The claim that this channel will feed the adjacent Nature Preserve wetlands in dry times is flawed since water cannot flow uphill from the deeper ditch. In higher waters even with islands, these several openings will just cause eddies and currents, which further erode the dirt dike walls. If the low water level times cause the channels to be pumped dry what happens to the organisms there and in the water depleted marsh? Since physical changes by constructions in category 3 wetlands are regulated these [1.] Modifications in the water flow patterns, [2.] Evidence of erosion causing sedimentation & turbidity from the dike, [3.] Impacts to the biological diversity of the surrounding area from these non-natural human intrusions are not allowed under our existing laws.

Photos taken of site  
summer 1991

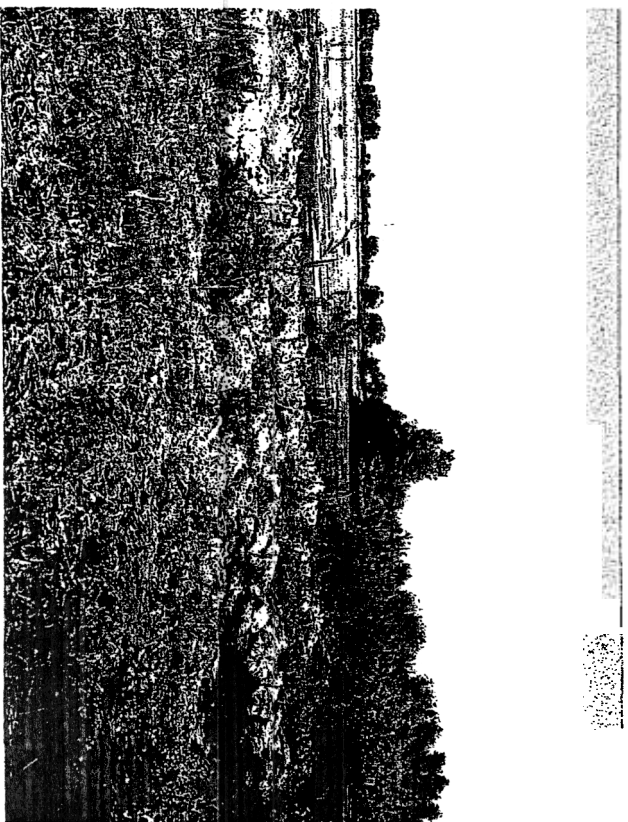
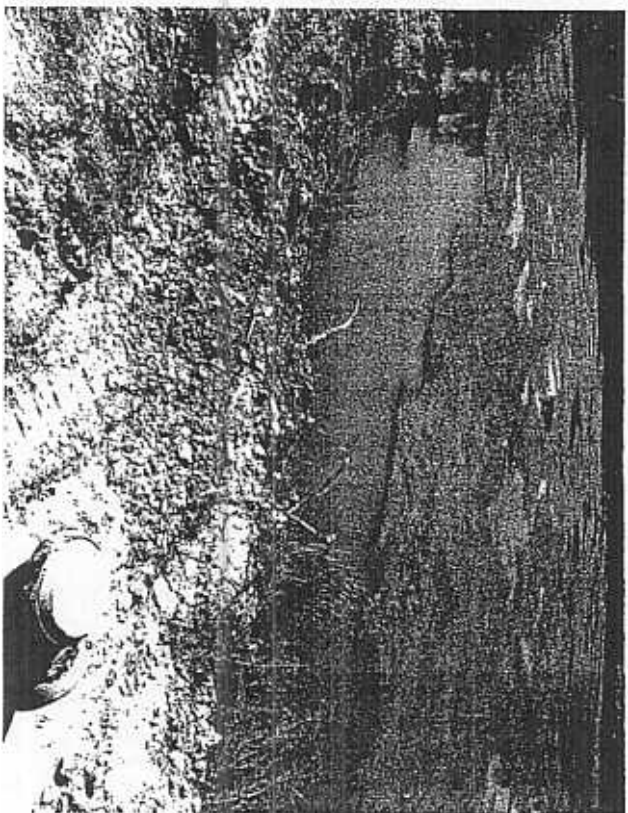
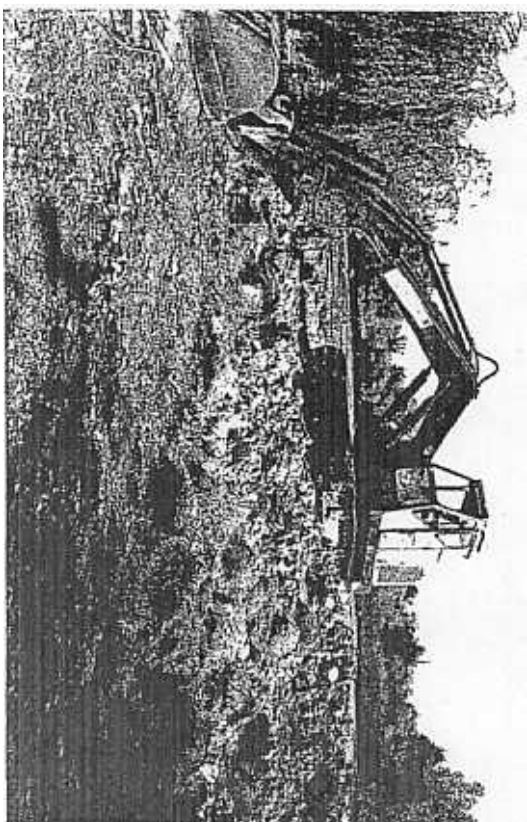
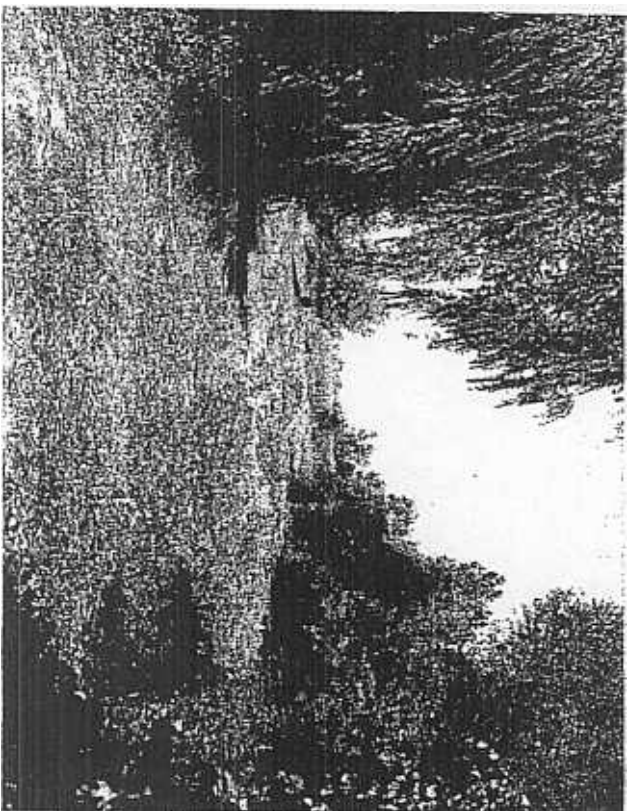
ACE Violation # 92-475-604

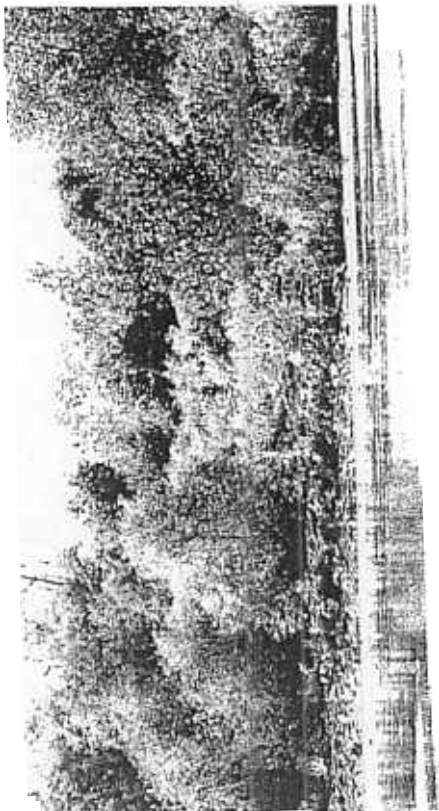
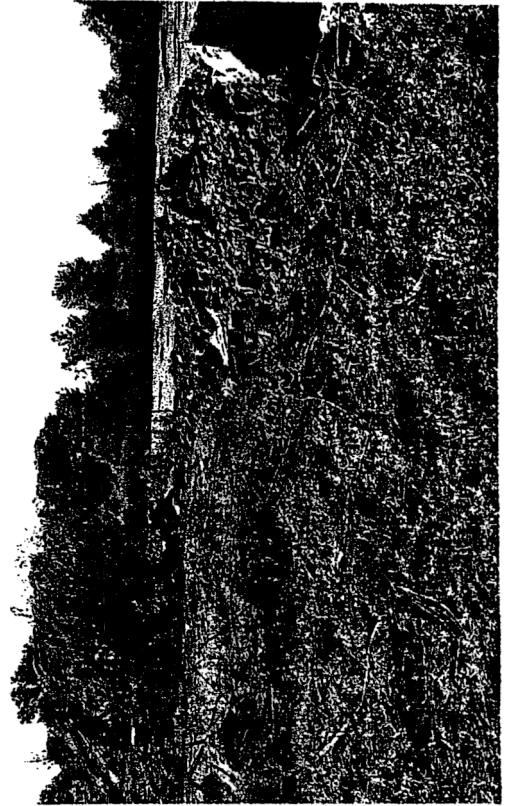
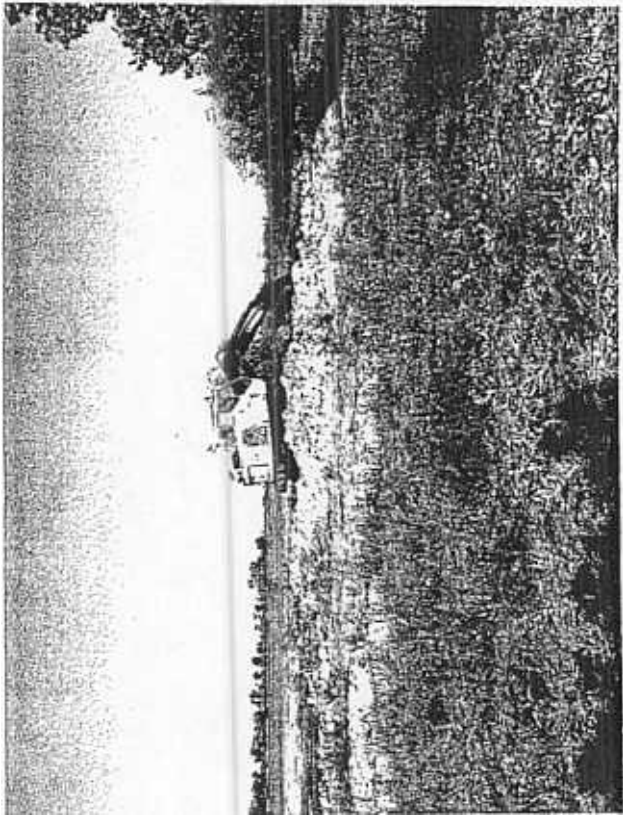
Charles Corso —

Eric County OHIO

Violation section 10/404









All concerns need water including the ecosystems and habitats of the Nature Preserve, which has been designated, *an endangered and threatened species critical habitat, Audubon Important Bird Area, a rare and superior wetlands variety in the state, and a migratory bird and shorebird resting place*. Sheldon Marsh is a superior high quality water area with exceptional ecological values, which supports and provides protected habitats for threatened Ohio species such as the tiger beetle and Blanding's Turtle. It is a migration path between suitable areas of habitat for these species. Sheldon Marsh complex displays a high level of biological diversity and integrity associated with its designated use of "superior quality warm water aquatic life habitat." **Are the beneficial designated uses of this State Special Resource water being maintained?** The applicant cannot determine the cumulative long-term impacts because the variables of this wetlands complex are so diverse. It is difficult to replace what is in place or recreate what is already considered the top quality, best & naturally functioning system. These values, listed in OAC 3745-1-07, must be maintained; however the applicant's after the fact permit proposal does not demonstrate or guarantee, "that no long term or cumulative negative impacts to these important values will not occur."

Have the applicants obtained the water withdrawal permits required? Irrigation is becoming an ever-growing consumptive use of Great Lakes waters. In higher water levels these channels invite the use of personal watercraft, devastating to a Nature preserve area. If all the landowners on the marsh pumped water for personal gain in similar amounts what would be the impacts to an already dry marsh? The future water quality conditions of Sheldon Marsh cannot be subject to speculation and experimentation. **We have many managed marshes, which create different kinds of habitats, but no other originally working coastal ecosystems of this size exist to study.** Only ten% of Ohio's wetlands remain. This wetland containing a Nature Preserve is intended to be natural, and this place owned by all the people of Ohio must not be impacted by these violations of wetland laws for one individual business interest. The dike and channels diminish the water flow to the rest of the complex, which changes the water quality and affects all aspects of the surrounding areas and their ecosystems. Encouraging nuisance species here like the mink reported to be making dens in "the newly disturbed soils of the nesting islands" are a threat if too many [high on the food chain] are present, they create an imbalance the wetlands cannot support, and this leads to degradation. The exceptional ecological value of this area and its waters is important to fish life cycles, to habitat for migrating neo tropical songbirds and shorebirds, to maintenance of the extensive biodiversity of plant life and animals and to the filtration properties wetlands have for removing nutrients and pollutants from drinking water sources. We cannot jeopardize these assets for a ditch.

The largest public need is served by maintaining the integrity of Sheldon Marsh State Nature Preserve, which sees over 80,000 visitors annually for many reasons. Besides the environmental gains of the plants and animals that use these habitats, the economic gains to the community from, those who come to see our nature areas, eco-tourism, is growing. **We cannot recreate this place once it is gone.** In the applicant's demonstration for public need, they state their plan for a "proposed new soil treatment center that will accept contaminated soils for bioremediation" as an asset to the community. This project



is not a hospital, roadway, or public facility. This proposed facility may be another source of revenue for them but it could also be a source of contaminated pollutants in the Sheldon Marsh watershed draining into the marsh and into Lake Erie our source of drinking water. The 14 million dollar a year earnings of this company have come from the community paying for the yard waste, landscaping, services and other patronage of their business. Yes they contribute much to the community and with this come obligations, but one of them cannot be the loss of a public natural resource. Their supporters owe them much for jobs, charitable donations, political donations, emergency help, school tree removal etc. and they have pledged to help ODNR control nuisance plants. This can all be good but does not allow a diversion away from the laws in place for everyone. Our wetland laws also apply in their back yard. For all their good to the community **this 401 project is and continues, to be a bad idea for the people of Ohio.**

The mis representation of the original erroneous permit as nesting islands and deep-water habitat for restoring a degraded wetland is only the first subterfuge. This fast track general permit, applied for one day and granted the next, was attempted to avoid the scrutiny of the OEPA and other regulating authorities. You now have the opportunity to act on Ohio laws to deny this project in place. The ACE was correct in rescinding the NWP27 as issued in error. The Corps history of allowing after the fact permits for these illegally constructed projects must be met with denial; not condoned, legitimized, and authorized even if it is a difficult task. OAC 3745-1-54 6[a,c,e.] states OEPA must consider, **when wetlands are impacted without prior authorization which results in their degradation from the original condition,** [in this case the upland removal of vegetation, the aquatic vegetation dug out at the dike construction now growing on the dike north side and south of the channel, wildlife habitat changes encouraging nuisance species and erosion and sedimentation in the marsh waters] **the level of scrutiny places the entire area into category 3 considerations. This lack of prior proper authorization for discharge into a wetland, places the basis of OEPA decision on the pre-discharge conditions.** We want to see the area restored to these pre construction conditions and the impacts of the dike and channels removed from these wetlands without modifications and changes,. The applicant remains liable and in violation of applicable laws for dredging and destroying wetlands without prior authorizations. All the supposed enhancements they claim cannot be considered in their argument because of the lack of prior authorizations. In most cases the improvements are only duplications of pre existing wetlands conditions.

**The applicant's effort to lower the category designation of the wetland is to reduce the standards required in antidegradation alternatives, avoidance, minimization and all other aspects of the wetland law.** He has attempted to segregate parts from the whole and describe areas at different places in time as not a wetland. The whole complex has always been a marsh even in their hired delineators descriptions. What happens in one-part effects the whole and the area in its constantly fluctuating state has always been a high quality wetland, now protected from discharge of dredge and fill. Violations of Section 10, section 404, and OAC restrictions all provide rational for denial of this 401 certification. The 1992 ACE restoration enforcement action in the same area, [Charles

Corso] described this as "emergent wetlands" from NWI maps. This past precedent plus the many historical aerial photographs showing this area vegetated until 1999 when it was removed on the Barnes flood plain and wetland edge, to build a north south channel [also without any permits] supports this rational. The applicant's newest wetlands map locates the historic use channel much to the east of the existing holding pond authorized by a phone message from the ACE. What are the historic use requirements for discharge of dredge and fill in wetlands? Your State and Federal maps and studies, public testimony and site descriptions from such as Dean Sheldon, Glen Bernhardt, John Blakeman, John Mack and Allison Cusick who studied here for years and did the determinations that it was superior enough to be dedicated as a SNP, all attest to the very high value and level of this wetland complex. The paid for reports of the applicant are biased toward his argument and remain an outsiders view at a single point in time without benefit of the longstanding history of this marsh. This is category III wetland and those rules and laws apply in this decision.

If the only need for this project is water supply, why have all the alternatives become so impossible? The statistics and facts presented are confused. Easements are costly one time and non-existent the next. Why couldn't the container garden be moved if water is unavailable? Why couldn't a buried pipeline work? All these arguments will mean nothing if the water levels become so low no water is there. **The dike and channels do not manufacture water they only redirect it.** We all live downstream and know no one owns all the water rights. This marsh is not a reliable source of continuous water supply and the Nursery has been fortunate to get free water for most of 50 years. It is now time to repay this gift with a better plan that removes the constricting dike and channels and allows the natural functioning of this protected wetland.

The Ohio Environmental Protection Agency must join with the Ohio Coastal Zone Management, Ohio Department of Natural Resources, US Fish and Wildlife, Federal EPA, and all others asking for denial of this 401 and Army Corps 404 IP to allow this after the fact authorization of an illegal project in place because these authorizations were never sought prior to the construction in a category III wetland.

Thank you for your time and consideration of this very important issue.

Patricia S. Krebs

*Patricia S. Krebs*

408 Kiwanis Avenue

Huron, Ohio 44839

[419] 433-2132

223 E. Tulane Rd.  
Columbus, OH 43202  
27 November 2001

RECEIVED  
NOV 30 2001

Laura Fay  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 43216

Ohio Environmental Protection Agency

Dear Laura Fay:

I appreciated receiving a Citizen Advisory from the OEPA inviting my comments on an application for a Section 401 certification from the Barnes Nursery.

I should assure you that I, unlike certain other parties in this ongoing disagreement, have no financial interest in the outcome of your deliberations. I am a frequent visitor to Erie County (about twenty times during the past year), and an admirer of Sheldon Marsh State Nature Preserve for more than twenty years. My positions as a program leader for the Columbus Audubon Society, and as editor of *The Ohio Cardinal*, the state birding magazine, may perhaps enable me to speak on behalf of the birding community as well as for myself in this matter.

The part of this State Nature Preserve most directly affected by the decision you will make on the certification is one of Ohio's very few natural wetlands—and perhaps the most pristine of these—directly affected by Lake Erie; it is, or at least has been, undiked and largely unaffected by nearby development. You will not find a similarly wild wetland along the Lake among the many managed by the Ohio Division of Wildlife, and there is but one managed by the US Fish & Wildlife Service; no private conservators—not the National Audubon Society, or the Nature Conservancy, or Ducks Unlimited—controls anything like it. Across the entire lakefront, only Sheldon's Marsh and the estuary of Crane Creek in Ottawa National Wildlife Refuge provide a combination of spawning grounds for fish, refugia for mussels, seasonal forage for shorebirds and waterfowl, and roosting areas for gulls and terns. This is indeed a precious resource.

The Barnes Nursery's unlawful construction of a huge dike and channel, designed to provide free water for its business, has already had serious consequences for the marshland. Instead of allowing the water level of the marsh to fluctuate naturally with Lake Erie levels, it has drained marsh waters low enough and often enough to deprive much of the wetland ecosystem there of its major element. The proliferation of invasive species is evident, as is the desertion of the area by other species once commonly found. Unlike in other areas, even normal seiches and rainfall have been insufficient to recharge its water. Gouging out a channel has inevitably disturbed buried pollutants, led to erosion, and silted the water that remains, and no doubt maintenance of the channel, should you allow it to remain, will do further harm of this kind. This disturbance and pollution of the local hydrology would be a matter of great concern anywhere; in a designated State Nature Preserve it is simply unconscionable.

The construction of this dike was, as far as I can tell, lawless and unauthorized, and every other regulatory agency I can find has acted to reverse it. Now the OEPA should insist that this scar on the landscape be removed, and the area restored to its pristine state. The nursery in question has many other options to supply water to its

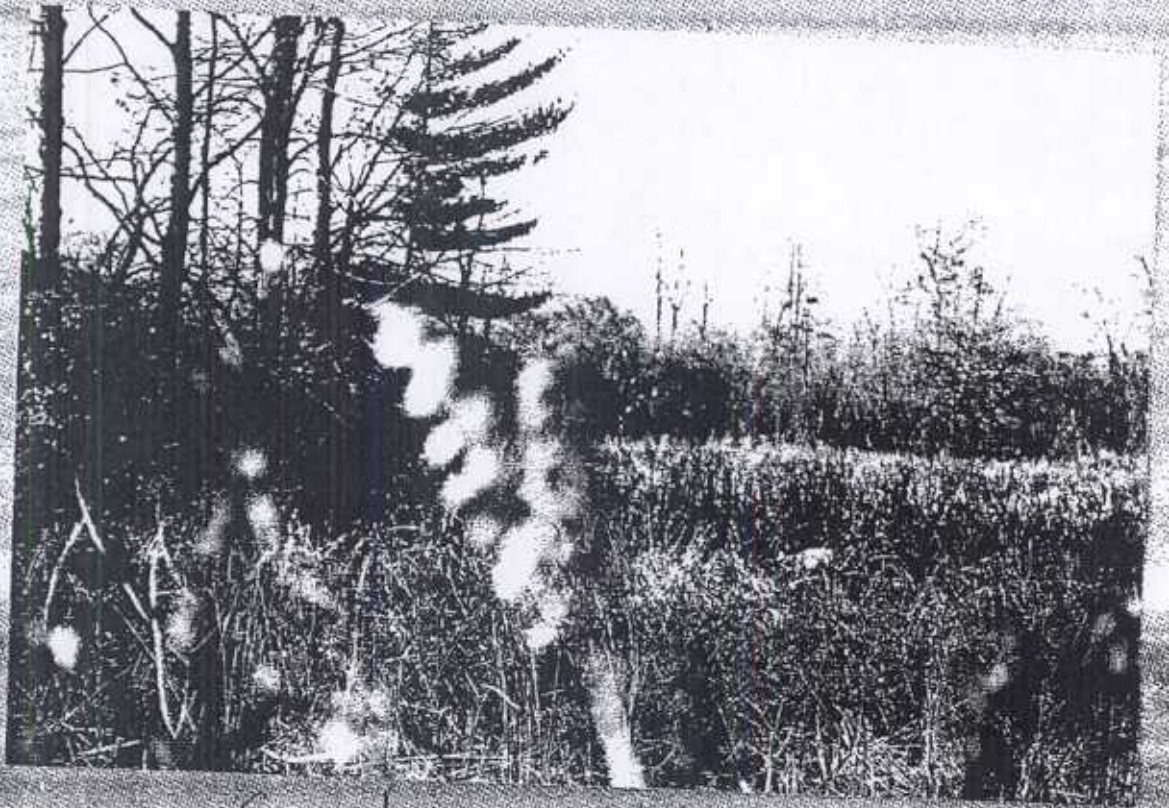
operations, more options than do similar nursery operations away from the Lake Erie shoreline. I strongly urge the OEPA to deny certification for this application, and further to require the immediate restoration of the area to its former state.

Yours sincerely,

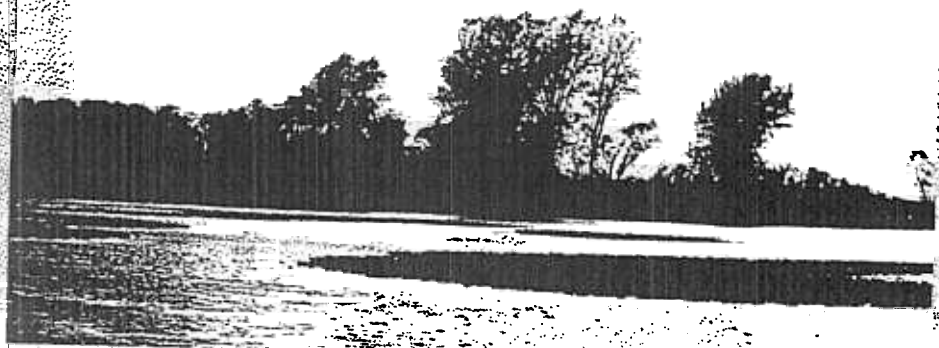
A handwritten signature in black ink, appearing to read 'W.D. Whan', with a long horizontal flourish extending to the right.

William D. Whan





Scene 1 present 2001



scene 2 past



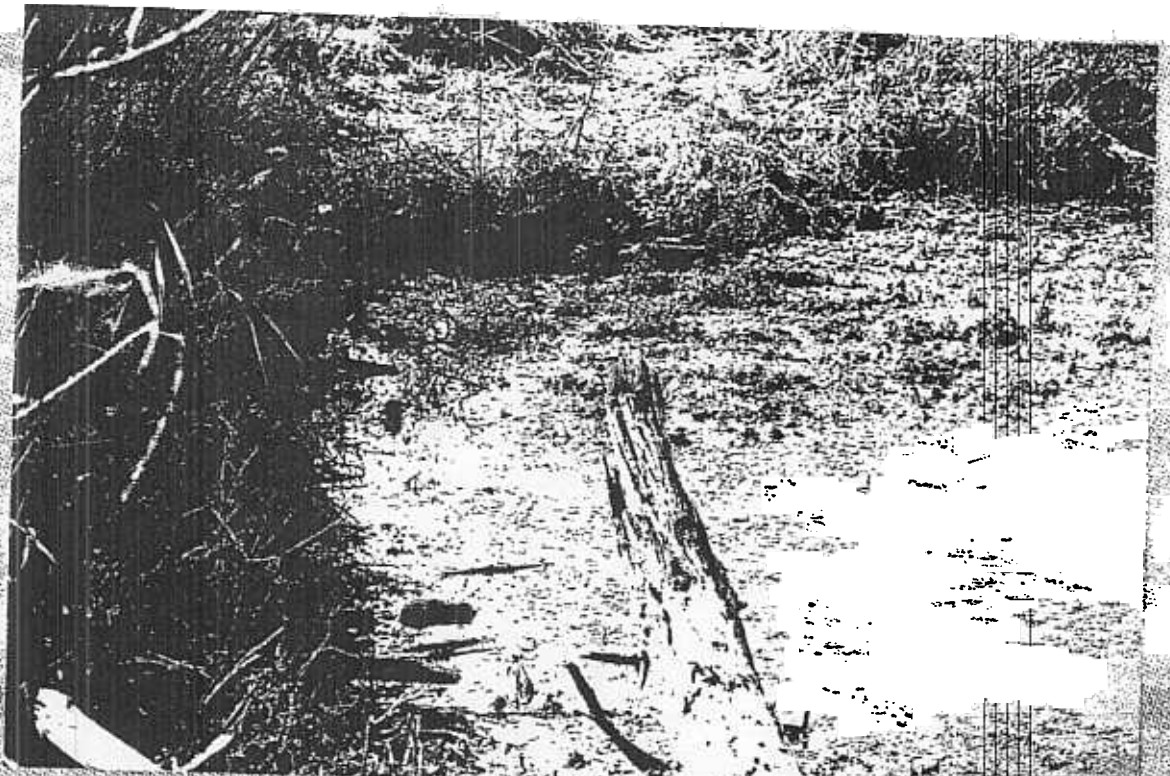
Scene 4  
past



Scene 2  
Present  
2001







Scene 3 present 2001



Scene 1 past



Ms. Laura Fay, Section 401 Coordinator  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dear Ms. Fay and Ohio Environmental Protection Agency Personnel;

I am writing to you in regard to the Sheldon Marsh wetlands restoration hearing on the pending dike permit by the Ohio Environmental Protection Agency scheduled for December 10<sup>th</sup>. I want to urge the Ohio Environmental Protection Agency to deny this permit and restore the wetlands to their natural state.

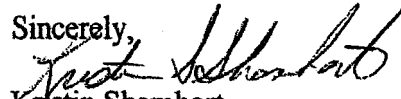
I have been a frequent visitor to the Sheldon Marsh nature preserve since it was established. I can even remember going to Dr. Sheldon's land when it was his private property, with my high school biology class. When my two grown children were small, we took them there to watch wildlife and learn about habitats and migratory habits of many species. And as an artisan, this reserve has served as an inspiration for several of my paintings.

The impact of the dike is nothing short of devastating. Since its construction, the waterfowl numbers are significantly lower. The water level, where it exists at all, is so low it can not support much aquatic life. I have witnessed a drop in the number of visiting migratory birds, the disappearance of the carp, less sightings of turtles, snakes and muskrat, overgrowth of the waterlillies and lotus beds by encroaching non-aquatic vegetation, and an overall destruction of this already fragile ecosystem. All this loss for the purpose of aiding one local business.

I am for economic growth in our community, but not at the expense of our natural reserves. I feel that the nature of the nursery business is subject the fluctuation of weather patterns and that the founders of such a business were aware of the inherent risk. I feel it is wrong to allow the needs of one business to supercede the vital protection of the already severely diminished Ohio wetlands.

Please do not issue the permit for the modifications of the existing dike and channels, and restore this nature preserve for present and future generation's benefit. Thank you for your time.

Sincerely,



Kristin Shamhart  
2111 Bogart Rd.  
Huron, Ohio 44839

P.S. Since it is said that "A picture paints a thousand words..." I am enclosing a few personal photographs from before and after the dike construction to show the change.

**TESTIMONY on Individual Permit (Application No. 2000-02170)  
for project "East Sandusky Bay Hydrology Restoration Project"  
Submitted by John Ritzenthaler, Director of Habitat Conservation, Audubon Ohio  
June 12, 2001**

Good evening. I am John Ritzenthaler, Director of Habitat Conservation, and I address you tonight on behalf of the National Audubon Society in Ohio. These comments are submitted in opposition to the Individual Permit submitted for after-the-fact authorization of a project in Sheldon Marsh.

The National Audubon Society is a 100-year-old national conservation organization with a strong presence in Ohio where we have over 27,000 members and 21 community-based local chapters. Audubon has a long-standing and deep interest in wetlands, as they are the most threatened ecosystem in Ohio. The consequences of a project such as the one you are considering can be detrimental to the Sheldon Marsh complex, an impressive example of a Category 3 wetland in Ohio.

Audubon Ohio's positions are based on a moderate, solution-oriented and scientifically sound approach. Therefore, we are concerned when a project impacts a wetland complex that involves the Category 3 wetlands of a State Nature Preserve.

Our concerns with the project can be generally grouped into two areas:

- Permit activity to date has been a flawed process.
- Effects upon the bird life of Sheldon Marsh have not been adequately considered.

**Permit activity to date has been a flawed process**

In granting the original Nationwide Permit 27 (NWP 27), the U.S. Army Corps of Engineers (Corps) began a process which was flawed in intent and in execution. In June 2000, a general NWP 27 was granted to create deep-water habitat and waterfowl nesting islands. Based on elements of non-compliance with the terms and conditions of the permit, the Corps officially suspended the original permit. Further investigation determined the NWP 27 inapplicable, because the essential element of the project was to provide a constant water supply for support of nursery operations rather than habitat enhancement. Since this type of project does not allow the authorization of water supply activities, the work done under the NWP 27 was not conducted with the intent that was communicated in the permit application. Beyond that, the work performed exceeded permit specifications. With the demonstrated breaches in the original permit, we cannot agree to overlook either the lack of a proper permit process or the failure of the applicant to follow permit guidelines.

Audubon is concerned about the apparent deficiency in the original review process and the unjustifiable violation in the conduct of the permit. We maintain that neither the applicant nor the Corps be allowed to correct these flaws at the expense of the wetland and the public. We appeal to appropriate oversight by the

Corps and strict adherence to the conditions of permits. A philosophy of sound management of wetlands requires this at a minimum. Furthermore, an after-the-fact permit should not compound errors made in the permit process. We recommend that the work performed to date be restored to pre-NWP 27 condition, with adequate investigation on any subsequent permit application.

**The effects upon the bird life have not been adequately considered**

The National Audubon Society has designated Sheldon Marsh as an Important Bird Area (IBA). Throughout the world, IBAs are sites critical to bird conservation. Through a science-based process, a 17-person IBA Technical Committee evaluated nominated sites in Ohio. Using four criteria to identify qualifying sites, Audubon Ohio has identified 87 IBAs to date.

Over 300 species of birds have been identified using Sheldon Marsh. Birds use this wetland complex for nesting, breeding, feeding, and finding shelter and drinking water, as well as for crucial resting periods during long migrations. As natural wetlands are lost in Ohio, wetland birds are increasingly dependent on IBA sites such as the Sheldon Marsh complex. Priority wetland species such as the Prothonotary Warbler, Common Tern, and Sora rail breed in the marsh. Others depend on the critical resources found there as they migrate through this ecosystem in spring and fall. The U.S. Fish and Wildlife Service has identified Sheldon Marsh as Critical Habitat for the federally endangered Piping Plover. Audubon maintains that any destruction or disturbance in the wetland complex should undergo an intensive investigation into the effects on birdlife in this habitat.

So, what is the answer? Audubon Ohio recognizes that this permit applicant has an interest in solving a problem that his business is facing. We are sympathetic to the dilemma, however we still insist that the Corps fully investigate the questions of effects on birds and other wildlife in the permit process. We ask that any permit considered in the Sheldon Marsh wetland complex be thoroughly researched in regard to birds and other wildlife. Until it can be shown that actions at a site such as Sheldon Marsh will not negatively impact birdlife, we ask that the Corps deny the permit and furthermore, require restoration of any work already done by the applicant.

Thank you for your time and consideration.

From: "Glover, Jim" <Jim.Glover@dnr.state.oh.us>  
 To: "Laura.Fay@epa.state.oh.us" <Laura.Fay@epa.state.oh.us>  
 Date: 12/12/01 7:59AM  
 Subject: Concern for Sheldon Marsh

To whom it may concern-

I wish to express my concerns for the potential of damage and deterioration of Sheldon Marsh State Nature Preserve if the permit is approved for Barnes Nursery. Very little, if any, wetland habitat remains available for birders and nature photographers along the Lake Erie shore. I visit the area several times a year (from Columbus) and fear degradation of the pristine beauty of Sheldon's.

Thanks for listening to my thoughts.

Jim Glover  
 Ohio State Parks  
 1952 Belcher Drive, C-3  
 Columbus, Ohio 43224

ra Fay - Fwd: Sheldon's Marsh

Page 1

From: <Fairweatherjack@aol.com>  
 To: <Laura.Fay@epa.state.oh.us>  
 Date: 12/8/01 7:48PM  
 Subject: Fwd: Sheldon's Marsh

>  
 > Dear Laura Fay and OEPA,  
 > I am writing in opposition to the dike built by Barnes Nursery  
 > adjacent to Sheldon's Marsh. The Permit was illegally obtained. We should  
 > not reward illegal behavior. It seems to me that Bob Barnes operates under  
 > the assumption that it is easier to ask forgiveness than to ask permission.  
 > It is also a lot harder to stop construction once it has already begun.  
 > The dike in question would degrade the water quality of Sheldon's Marsh. I  
 > am a commercial ferry Captain on Lake Erie. I have seen the results of  
 > dredging. I can not believe that such a process would be allowed in an  
 > area that supports a class III wetland. We have so few areas like this  
 > left. I urge you to oppose this permit. There is absolutely no federal  
 > need for this dike. In fact our need as a community is to see that  
 > Sheldon's Marsh is completely restored.  
 > Respectfully,  
 > John P. Lamb

1221 Hensel St  
 Beach City OH 44608

November 24, 2001

Ohio EPA Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Attention: Permits Procession Unit

To Whom It May Concern:

We are all aware of the impact on the entire earth when wetlands are disturbed or destroyed. I do visit Ohio quite frequently, and have walked in the Sheldon Marsh area. It must be kept as nature intended. It is my perception that the activities of Barnes Nursery will upset the delicate balance of this precious wetlands area. I urge you in the State of Ohio to prevent the Army Corps of Engineers from granting this Permit 401.

We in Pennsylvania support your efforts to protect our environment. Please save Sheldon Marsh.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel L. O'Block", with a long horizontal line extending to the right.

Daniel L. O'Block  
4145 Saltsburg Road  
Murrysville, Pa. 15668

RECEIVED

NOV 28 2001

Ohio Environmental Protection Agency

*I do not understand  
the implications of  
the map*

December 17, 2001

To: Laura Fay FAX: 614-644-2745

Ohio EPA Division of Surface Water

Attn: Permits Processing Unit

P.O. Box 1049

Columbus OH 43216-1049

From: Edith Chase

Ohio Coastal Resource Management Project

330/673-1193

Re: Comments on Ohio EPA Sec. 401 Certification of Barnes Nursery Application

Please add the following to my December 10, 2001 statement. I have received additional information since then, including the USACE-Buffalo Environmental Assessment, and a tax map from Erie County tax map office and a map showing the boundaries of the Sheldon Marsh State Nature Preserve.

I strongly recommend that Ohio EPA ~~deny~~ the Section 401 Water Quality Certification. Then explore settlement options as part of the appeal process, for the following reasons:

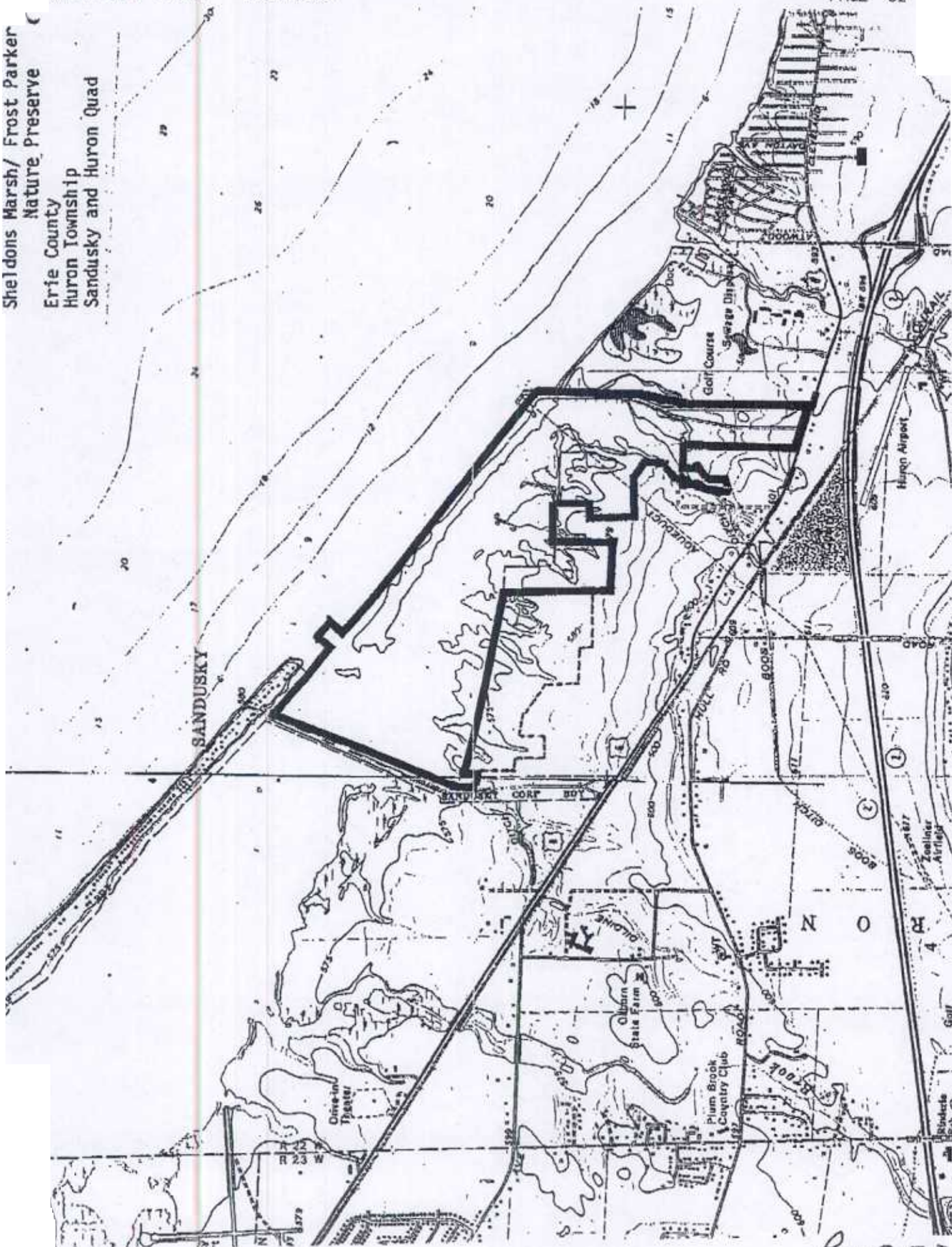
1. One of the significant water quality impacts is the turbidity from erosion of the channel and island; see letter to Michael Montone, USACE, from Gene R. Edwards (Berlin Heights, OH), dated June 29, 2001. Sediments eroding from the channel and island cross the property line and affect Sheldon Marsh State Nature Preserve, as well as eroding in the other direction. The entire Sheldon Marsh wetlands complex serves as spawning and nursery grounds for yellow perch and other desirable fish species. Their habitat is and will continue to be affected by this turbidity, while undesirable nuisance species such as carp will increase.
2. The alternatives analysis provided by Barnes Nursery in their application was incomplete and deficient, and was accepted by the Corps without independent verification.
3. The Corps used exaggerated costs for the underground pipeline, to be laid in the existing channel (1800' measured by GPS). The extension of 500' suggested would cross the State Nature Preserve and would be contrary to state law. The attached boundary map of the Nature Preserve shows that the pipeline could go around the job at the end and then to the Willow Road bridge for access to Sandusky Bay water. From this small map, a rough estimate of 3800' would be the total distance from Barnes to the Willow Road bridge, going around the State Nature Preserve boundary, if laid in the existing channel, plus an extension in the privately owned road right-of-way (Cedar Fair Limited was one of the partners in the NWP 27 permit). The Corps used Barnes estimate of 2000' for the Upland pipeline and 1.4 MGD of water, double Barnes estimate of need. Therefore, the cost of this alternative might be only 1/3 of the \$352,000 given in the application.
4. Further work should be done for more accurate estimates, but the 401 certification should be denied to allow time to remedy such deficiencies.
5. Since Sec. 401 Certification of an after-the-fact application would set a dangerous precedent and would put every wetland in Ohio at risk of after-the-fact applications, I urge Ohio EPA to deny certification and to explore settlement options as part of the appeal process.

Attached are copies of the State Nature Preserve boundary map and an excerpt from the Erie County Tax Map of this area. I will mail you better copies.

*Edith Chase*  
Edith Chase



Sheldons Marsh/ Frost Parker  
Nature Preserve  
Erie County  
Huron Township  
Sandusky and Huron Quad



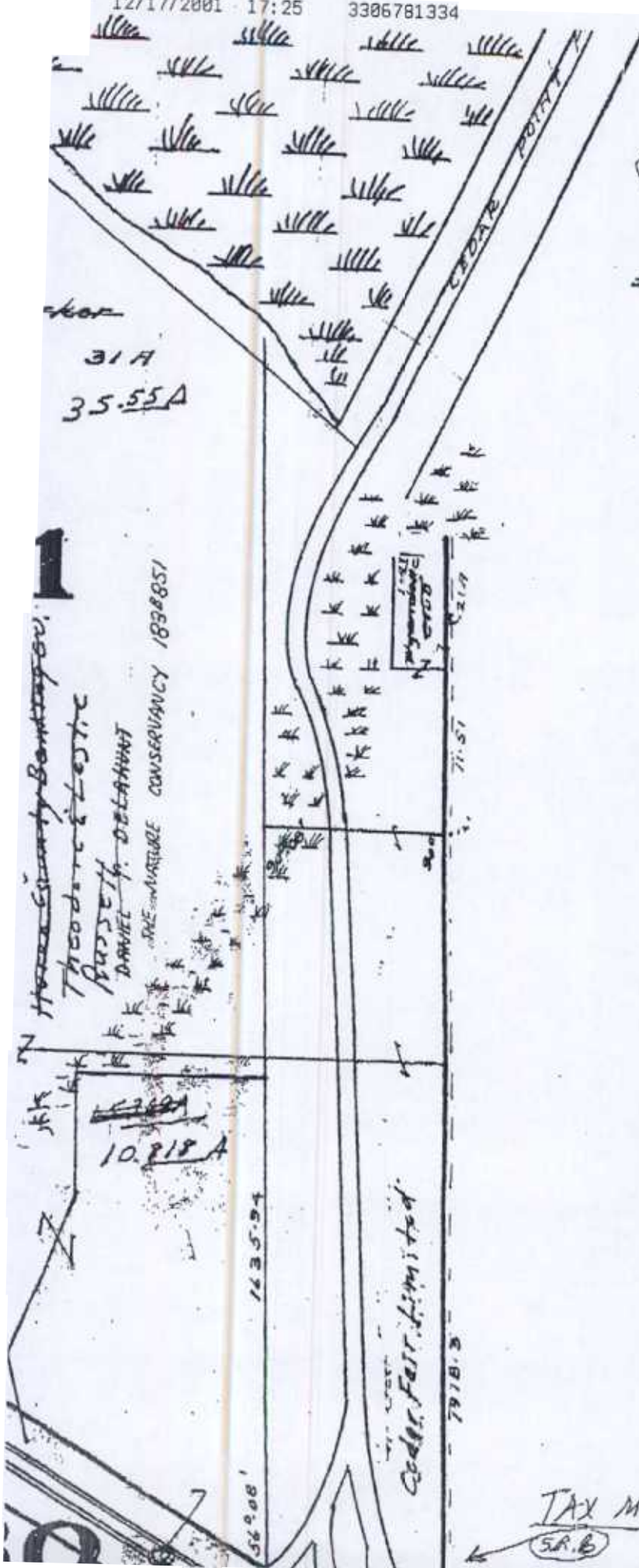


Sheldon Marsh State Nature Preserve

NORTH PART OF  
SECTION 4 RANGE 22 TOW.  
HURON TWP

N.H.T. 35

SCALE 1"=5 Chains



TAX MAP

(5A.6)

## Montone, Michael G LRB

---

From: Steve [shepart@datasync.com]  
Sent: Saturday, June 09, 2001 10:55 PM  
To: Montone, Michael G LRB  
Subject: Sheldon Marsh

I am writing this letter in support of denying an "after the fact" permit to Robert W. Barnes. He knowingly damaged the Sheldon Marsh State Nature Preserve for personal gain and was deceptive in getting original permission. He must be denied and he must be required to restore the area to whatever extent possible.

I have never been to this preserve. I live in south Mississippi where Army Corps of Engineers personnel regularly permit the destruction of wetlands--particularly if that destruction is for a friend of Trent Lott's. The Army Corps Mobile office occasionally tries to issue after the fact permits. We in this nation's majority try to stop this, and we usually are dealing with private lands or shorelines--not nature preserves.

This nature preserve is for everyone in the country. If national publicity were to occur on this issue and a vote were held among American citizens, you must not doubt that the great majority of Americans--nationwide--would vote to refuse an after the fact permit for a destroyer of a preserved natural area? You must do the right thing and set an example for reckless and thoughtless individuals who would love to run roughshod all over our natural areas.

You should ask yourself what good your life has served if you allow criminal acts to take place in nature preserves. If you have any human decency in yourself--and I don't see much in the Army Corps personnel in the Mobile district so perhaps I'm expecting too much--you should stand up for what's right and punish someone to the extent that you can by denying this Mr. Barnes a revised permit.

You should also consider extending the deadline for comments since so little word has gotten out about this travesty. Let the dredgers who advocate destroying marshes line up on one side of the room (the three or four nationwide who are of such selfish stupidity--beside their beloved Trent Lott--and set aside an area the size of a county to accomodate those who will think this tragedy an outrage. You will quickly see that the overwhelming majority in this are right and Mr. Barnes along with his slithering ilk are most definitely wrong.

Do the right thing. Deny any permit to Mr. Barnes.

Sincerely,

Steve Shepard  
P.O. Box 1295  
Gautier. MS 39553

## **Some things to consider**

I believe there are State/ Federal laws in place to protect our natural resources. Taxpayers have paid and continue to pay to have these laws enforced to insure a future presense of our wonderful resources in Ohio and all states in the USA. All property owners must follow the laws without **"Special" treatment given to anyone for personal financial gain.**

Lake Erie Marinas, water land border owners, farmers and others are expected to follow the "Laws". Why should a special business, (Barnes) ,be granted favoritism? What **"channels"** is Barnes pursuing to get this **"Favored Status"**. Why is the Barnes Company out side the laws that others must abide by? I believe this is a "Waste" of my taxpayer monies to even litigate such **"NONSENSE"**. The Law is clear and someone (Judicial) should use my taxpayer dollars and draw the line **NOW!** What has happened to the "gate" keepers when they allow this type of dangerous, preposterous proposal to get through. Are they sleeping or looking the other way?

If all business' connected with our natural resources are allowed to pursue their own financial gains at the expense of **"NATURE"**, then our future for conservation has ended. The generations of tomorrow can say we sold **"NATURE"** to the highest bidders and politically connected!

Robert G. Longnecker  
1319 Mirheath Dr.  
Huron, Ohio 44839

**(A concerned law abiding citizen and Taxpayer)**

11/23/01

*Keep up the fight!  
I'm behind you.*

Terri Martincic  
674 Wesley Drive  
Berea, OH 44017

November 20, 2001

Firelands Audubon Society  
PO Box 967  
Sandusky, OH 44870

Attn: Audubon Society,

RE: Barnes Nursery water quality 401 application No. 2000-02170(1)

I would like to protest the existence of a man made water channel adjacent to Sheldon Marsh Nature Preserve. My family visited there last weekend and were surprised by how dry the marsh is. We saw pictures on the internet showing a good amount of water in the unauthorized man made channel. It really makes me think this channel is diverting water destined for the marsh and changing the natural watershed that created the marsh.

I like to think I'm a realistic naturalist. Humans have really over taken this planet, our influences can be seen almost everywhere, even at Sheldon's Marsh. I know that filling this little pool at Barnes Nursery will be a burden. And I have thought carefully before writing this "protest" letter. What if this is having an effect on the marsh? The marsh and endangered species such as Blanding's turtles and Piping Plover seem too valuable to risk.

Sincerely,



Terri Martincic

cc: Western Cuyahoga Audubon Society  
cc: Ohio Environmental Agency, Ms. Laura Fay

December 12, 2001

DEC 18 2001

to Envir

Ohio EPA-Division of Surface Water  
ATTN: Permits Processing Unit-Laura Fay  
Lazarus Government Center  
P.O. Box 1049  
Columbus, OH 43216-1049

**RE: Barnes Nursery**

Dear Ms. Fay:

I am John F. Smith residing at 304 West Avenue in Elyria, OH, presently a director of Audubon Ohio and President of Ohio Audubon Council (OAC). OAC is an independent organization, which is made of delegates from 21 Ohio Audubon chapters representing approximately twenty-three thousand National Audubon Members. I have also been active in our local chapter, Black River Audubon Society for over a period of 43 years.

I attended the public hearing held on December 10, 2001, and stayed until its adjournment. Since so many people were on docket to testify, rather than taking up everybody's time with my humble thoughts, I would serve a better cause by sitting back and listening and then formulating my thoughts in writing as I have done in this document.

I will proceed question by question:

1 Has the applicant evaluated all upland alternatives?

Answer: Absolutely not. I believe he could arrange and negotiate a contract to deliver at a reasonable cost untreated water from the City of Huron. Furthermore, he exaggerated the cost of laying a pipeline to open water where only temporary damage would have been done to the marsh.

2. Has the applicant demonstrated avoidance and minimization of potential adverse impact?

Answer: Since the channels have already been dredged, he not only did not demonstrate minimum avoidance and minimization of potential adverse impacts, he went into the area like "a bull in a china shop" doing damage to so many species of

animals and plants which may take years to recover, if ever. During the height of the growing season with 375,000 gallons used daily, water will be constantly agitated and stirred up, stressing plants, birds, and animals. This project fails completely in this area and it doesn't take an Einstein to come to this realization! It isn't too difficult to see the constant adverse impact to a class three wetland, a state preserve belonging to all citizens of Ohio.

3. Does the project fulfill public need?

Answer: Absolutely not. It serves a private corporation, Barnes Nursery, which wishes to maximize the bottom line with water at the lowest possible cost. The public need is not just the employees of Barnes Nursery, nor the people of nearby communities. However, several residents of the area testified to the value of Sheldon's Marsh to their needs for education, relaxation, and enjoyment. The public need for these factors extend to all Ohioans and to all residents of the USA and the World. I will testify to the fact that I myself have literally taken scores of people to Sheldon's Marsh over many years.

4. Does the project accommodate important social and economic activity?

Answer: The only way this question can be answered is if Barnes Nursery would open its books to a panel of accountants. Would the cost of water be so prohibited that Barnes would have to close its doors and let its employees go? Without the facts of the balance sheet and profit and loss statements, this question cannot be answered. A committee of independent accountants could give us a fair answer to this question. Independent accountants could also study the cost of both the water and the cost of laying and maintaining a pipeline. However, I question whether what Barnes has done, or (should I say Barnes wishes to do) will long term minimize his cost for water for the intake channel and hydrologic channel will have to be dredged repeatedly to remain open because of the action of the wind, rain, level of lake will bring in a great deal of sediment. This could be his most expensive long-term method of getting water and constantly dredging to keep the channels open would add repeated adverse turbidity to the water. We know this is going to happen to Class 3 Wetland if this application is approved.

5. Has the applicant demonstrated that the wetland is not scarce regionally or nationally?

Answer: The State of Ohio has one of the poorest records in the nation for preserving wetlands. We have already lost over 90% of our wetlands. Sheldon's Marsh is one of the few left along the Lake Erie shore in Ohio. No question that this is an important staging (resting and feeding) for migratory birds and sanctuary for many fingerlings of desirable species of fish, breeding grounds for many species of birds, and potentially good areas for the endangered Piping Plover and the Prothonotary Warbler which is on Ohio's watch list along with the endangered Blanding Turtle and many other invertebrates. As Jim Bissell of Cleveland Museum of Natural History

has pointed out, several species of plants are unique to Sheldon's Marsh. How could anyone point out that Sheldon's Marsh complex is not a scarce wetland regionally and/or nationally?

6. Will storm water and water quality controls be installed?

Answer: I don't remember that this was discussed in any detail, but I would suggest that the EPA require detailed water tests periodically of the water in areas adjacent to Barnes Nursery. These tests should be for PH, phosphorous, nitrogen and oxygen content after bacterial action. Excessive amounts of these pollutants could seriously damage the Marsh.

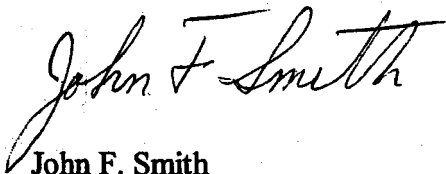
My concluding remarks would be for a solution, which would help Barnes Nursery in the long run, but would be costly initially to Barnes Nursery or Mr. Barnes. You most certainly must deny, and I urge you to do so for the 401 certification, but allow him to lay the pipeline out to open water before he restores the wetland to the original condition. However, he must agree to deed over the 23.31 acres of wetland, plus 6.6 acres of buffer easement to the State of Ohio Sheldon's Marsh Preserve.

If he refuses to do this, instruct him to forget about the pipeline and just restore the wetland back to its original condition and take immediate measures to restore the quality of water by reducing turbidity caused.

Barnes Nursery blatantly violated the laws of Ohio by not applying for the 401 permit before starting the project. This action should not be without a stiff penalty. The loss of land, which he must deed over if he wishes a pipeline to his nursery stock, and the cost of restoring the wetland after laying pipeline would send a message to other would-be-destroyers of wetlands to apply for the permit first. Don't try any subterfuge!

In building the channel 55 to 60 feet wide certainly when he specified 20 feet in the USACE application for the 404 permit certainly raises the questions that he along with at least another landowner had something else in mind such as a marina, in which upland could be subdivided. Such lots with access to the lake by boats could bring in substantial profits. This is only speculation, but forcing him to fill in the channel over a pipeline would put an end to this possibility.

Sincerely,



John F. Smith  
Director of Audubon Ohio  
Director of Black River Audubon Society  
President of Ohio Audubon Council



John F. Smith  
304 West Ave.  
Cleveland, OH 44035



Ohio EPA-Division of Surface Water  
ATTN, Permits Processing Unit  
Laura Fay  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio-43216-1049

A321641049



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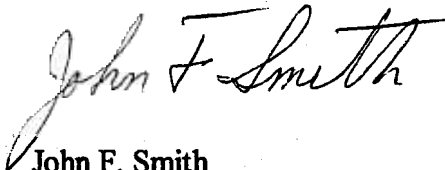
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Sincerely,



John F. Smith  
Director of Audubon Ohio  
Director of Black River Audubon Society  
President of Ohio Audubon Council

**From:** Bill Heck <bheck@iname.com>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 12/5/01 1:10PM  
**Subject:** Sheldon Marsh restoration hearing

Dear Ms. Fay,

I am writing in regard to the public hearing on the Barnes Nursery application for Water Quality (Section 401) Certification scheduled for Monday, December 10th, 2001, at 7:00 pm in Sandusky. I respectfully request that the EPA deny this permit (401 permit).

As you know, the initial permit was granted improperly by the Army Corps of Engineers. As Senator George Voinovich declared, "the applicant intentionally misrepresented his project to the Corps...." in the permit application. Moreover, the channel and dike subsequently constructed exceeded the limits of the permit by a very large margin (the channel being thirty feet wider than specified. Barnes has ignored requests and orders to restore the area to its original condition. The Ohio Attorney General has given Barnes notice of intent to sue. In other words, this project has been tainted with illegality from its origin.

Frankly, as a citizen of Ohio and of the United States, I find it outrageous that this situation has not been resolved more promptly. Moreover, it is even more outrageous that there is any possibility that a permit after the fact could be approved, thus rewarding this chain of illegal activities. I trust that your agency will do the right thing, reject this permit application, and demand that Barnes comply with the law just as the rest of us do every day.

Thank you for your attention in this matter.

William C. Heck  
25 Christopher Drive  
Oxford, OH 45056



**From:** <JCKIOH@cs.com>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 10/3/01 5:20PM  
**Subject:** Sheldon Marsh

Dear Ms Faye:

The damage to Sheldon Marsh from the Barnes Nursery project is drastic, but not unrepairable. Sheldon Marsh was a pristine wetland, functioning well as a natural filter. The water quality of the Lake Erie area is slowly improving, thanks to governmental regulations and guidance to clean up the pollution and protect the few remaining undisturbed natural areas. However, Barnes disturbance of the Sandusky Bay/Sheldon Marsh area is already causing murky water from erosion of Barnes' dike. That will affect the desirability of shorebirds to visit the Marsh. The plant communities will also change from native plants to invasive plants such as phragmites and cause further deterioration of Sheldon Marsh.

I believe that Barnes' right to the use of the eastern Sandusky Bay water cannot be allowed. Where does one industry's right to water (Barnes) take priority over other users of the water? Sheldon's Marsh belongs to all the citizens of the State of Ohio, as well as the water in Sandusky Bay and Lake Erie.

If Barnes is allowed to keep the dike and channels as they have built them, degradation of the entire eastern Sandusky Bay area will continue. As they dredge to keep the channels deep, turbidity will increase, submerged pollutants will be released, and the damage to this wonderful wetland, Sheldon Marsh, will continue to the point of destruction.

Not many businesses such as Barnes can enjoy free utilities courtesy the owners of Ohio's water. Barnes needs to seek other means to supply water for their industry instead of continuing to steal the water from everyone.

Please do not approve Barnes Nursery application to keep their unauthorized dike. Please require full restoration of Sheldon Marsh and Sandusky Bay.

Sincerely,  
June A. Campbell, 932 W

Lakeshore Drive

Kelleys Island OH 43438

Please confirm receipt of this message. Thank you

**From:** John Williamson <jjwmson@swbell.net>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 11/30/01 9:48AM  
**Subject:** Sheldon Marsh

Everything must be done to prevent Bob Barnes from destroying some of the last tiny bit of wetlands left in Ohio and in the US. Wetlands have been destroyed by the million of acres across our nation and few remain. When someone is allowed to destroy habitat while building something unnecessary for personal greed, that is unexcuseable. What are the environmental protection agencies doing? Why do they exist? If this project is allowed to go forward then I believe all the agencies that are supposed to prevent this kind of outrage should be considered a waste of our tax money and dismantled. Everyone in the Sandusky area knows that this is supposed to be a chanel for leisure boats to reach the lake so property owners along the chanel can develop the land for homes and apartments with boat docks and easy access to the lake but protected from the waves and winds of the lake itself. Barnes Nursery can buy more land and move the nursery or just drill a few water wells or dig a pipeline to the lake through their own property. There is nothing about this project that benefits anyone but Barnes Nursery. The project must be stopped and Barnes Nursery fined and be used as an example to anyone else who attempts to build anything that will destroy wildlife habitat in parks and preserves anywhere in Ohio or the US.

Sincerely

Dr. and Mrs. John Williamson

**From:** John Williamson <jjwmson@swbell.net>  
**To:** <Laura.Fay@epa.state.oh.us>  
**Date:** 11/30/01 9:48AM  
**Subject:** Sheldon Marsh

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Sincerely

Dr. and Mrs. John Williamson

June 1, 2001

Mr. Michael G. Montone  
Project Manager  
U.S. Army Corps of Engineer  
1776 Niagara Street  
Buffalo, New York 14207-3199

Dear Mr. Montone:

Hopefully, this short letter will go a long way to all Federal and State Agencies that have concerns about our Category III irreplaceable Sheldon Marsh.

There are many rules and regulations that should protect our wetlands. To author them is difficult, to enforce them should be a lot easier. You are certainly aware of all the problems associated with this project both ecological and legal. With the proposed off shore breakwaters to protect the Marsh, the project would not be compatible. Why protect the Marsh from the outside (beach) and allow it to be destroyed from the inside?

We want the Marsh restored to its pre-construction condition. Issuance of another permit to damage and destroy more plant and animal life is unforgivable! Please convey our concerns and thank you for showing good judgement to resolve this invasion of our fragile Marsh.

Sincerely,

Concerned Citizens for Sheldon Marsh

Cedar Point Road  
Sandusky, Oh 44870



>  
> Dear :  
> I am writing to urge your office's assistance in clearing up the mess and  
>rectifying the damage done by the illegal dredging conducted near Sheldon  
>Marsh State Nature Preserve. As a lifelong Ohioan-and a lifelong bird  
>watcher-I know how incredibly valuable Sheldon Marsh is to our state and to  
>the birds and wildlife that use our lakeshore habitat. There is so little  
>undisturbed habitat remaining along Ohio's Lake Erie shoreline that it's  
>painful and disturbing to see this assault on Sheldon Marsh.  
>  
> Ask any bird watcher living in, or visiting, Ohio, and they will tell you  
>about the incredible attractiveness of Sheldon Marsh to birds and birders.  
>In September1997 and again in September1999, my company, Bird Watcher's  
>Digest, hosted the Midwest Birding Symposium in Lakeside, Ohio. More than  
>1,000 bird watchers attended each year and they spent almost \$500,000 in  
>the surrounding communities during each event. What drew them to Ohio? It  
>was the birding opportunities at Sheldon Marsh, one of our highlighted  
>hotspots for the symposium. Proceeds from the Midwest Birding Symposium  
>helped to fund the Lake Erie WingWatch Trail, which includes Sheldon Marsh.  
>The boom in ecotourism is just beginning in Ohio. We should do everything  
>in our power to encourage the interest in, and protection of, our natural  
>areas and preserves.  
>  
> Please do what you can to see that this environmental imposition on  
>Sheldon Marsh is halted, and the damage is repaired. And please maintain  
>your high level of interest in protecting our last great natural places  
>here in the great state of Ohio.  
>  
> Thank you for your time and consideration.  
>  
> Sincerely,  
>  
>  
> Bill Thompson, III  
> Editor -  
  
> Bird Watcher's Digest  
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